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1930.  
NEW ZEALAND.

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# PUBLIC TRUST OFFICE

(REPORT OF THE) FOR THE YEAR ENDED 31st MARCH, 1930.

*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, 1930.

1. The new business reported for the last year constitutes a further record for the Office. During that period 3,845 new estates and funds of a total value of £8,473,916 were accepted for administration, as compared with 3,508 estates and funds to the value of £7,091,350 accepted during the year preceding. This is the first occasion upon which the new business for any one year has exceeded £8,000,000. The value of estates and funds under administration on the 31st March, 1929, was £48,334,790, whilst the corresponding figure at the end of the year just past was £53,049,437—an increase of approximately £5,000,000 for the year. The average annual increase in the total value of estates and funds under administration has been over £3,000,000 for the past eight years; the increase for the year ended 31st March, 1929, was over £4,000,000, whilst a new mark has been set for the year just ended by the increase of nearly £5,000,000. The following table shows the growth of business conducted by the Public Trust Office for the past twenty-five years:—

Year.						Value of Estates and Funds under Administration. £
1905 ..	..	..	..	..	..	3,577,355
1910 ..	..	..	..	..	..	7,358,947
1915 ..	..	..	..	..	..	13,580,936
1920 ..	..	..	..	..	..	20,860,686
1925 ..	..	..	..	..	..	35,570,642
1930 ..	..	..	..	..	..	53,049,437

The figures for the new business accepted for the past seven years are impressive, and show a steady and consistent growth. They are:—

Year ended 31st March.						Business. £
1924 ..	..	..	..	..	..	3,781,155
1925 ..	..	..	..	..	..	4,621,869
1926 ..	..	..	..	..	..	4,651,447
1927 ..	..	..	..	..	..	5,551,019
1928 ..	..	..	..	..	..	6,511,928
1929 ..	..	..	..	..	..	7,091,350
1930 ..	..	..	..	..	..	8,473,916
						<hr/> <hr/> £40,682,684 <hr/> <hr/>

2. It will be seen that there is a considerable difference between the net increase in the value of estates and funds under administration and the value of estates and funds accepted for administration during the year. This difference is, in a large measure, represented by the value of estates the administration of which has been accepted and closed during the year. During the year the administration of 2,541 estates and funds valued at £2,297,059 was carried to completion, and of these estates 624 had been reported for administration after the 31st March, 1929. These latter estates comprised those whose assets permitted of prompt and favourable realization, for of course care is taken to prevent forced realization or sacrifice.

3. The Public Trustee's report and the figures which I have just given convey a very good idea of the magnitude, and the utility to the public, of the work of the Department. To cope with the ever-growing volume of business a very comprehensive organization, both as regards personnel and representation throughout the country, has been provided. As to the personnel, the Department has devoted particular attention to the provision of staff qualified in all phases of the work, so that those whose affairs are entrusted for administration may have all the benefits that can be conferred by technical skill. A noteworthy feature of the efforts of the Office to provide adequate staff is the attention which is being bestowed upon the training of its promising juniors in the practice and theory of the work by means of well-organized classes conducted under the supervision of qualified instructors.

4. The growth in the number of wills on deposit has been phenomenal. 6,893 additional wills were deposited with the Public Trustee during the year, and the total number now held stands at 68,253, an increase of 5,412 over the previous year's total. The difference between the number deposited and the increase in the total represents wills withdrawn through deaths of testators or for other reasons. When it is remembered that on the 31st March, 1914, the wills deposited after forty-two years of Office activity numbered only 6,427, some idea will be gained of the extraordinary advance in this department of the Office work during the sixteen years which have elapsed since then. New wills are now coming in at the rate of over six thousand per annum, and thus the yearly increase exceeds the total accumulations up to 1914.

The prospective business represented by the wills on deposit is very large indeed, but the figures I have just quoted do not fully indicate the number of estates which will ultimately come to the Office for administration, since many wills nominating the Public Trustee as executor are known to be held by private solicitors, banks, &c. Moreover, in many cases where wills nominate private trustees the administration will be transferred to the Public Trustee through the executors renouncing the administration in his favour.

The advisability of making a will will be obvious to every thinking person, because it enables a testator to dispose of his assets as he determines, not as the law dictates, and to provide for the special needs and circumstances of any of his dependants, which, of course, cannot be done under an intestacy. It may be safely said that in the preparation and safe-keeping of wills the Public Trustee is performing a most useful service, and one which is clearly appreciated and utilized by a very large number of persons. It must be a source of satisfaction to a testator to know that every due precaution is taken by the Public Trustee to see that his wishes are clearly expressed in a well-prepared document, to preserve the absolute secrecy of its contents, and to ensure its competent and safe custody during his lifetime.

5. Estates administration and trust work is of a very special nature, and in a marked degree the conduct of it calls for efficiency, safety, and, in addition, kindly dealing with the beneficiaries. It is not too much to say that the Office administration adequately provides for all these features in the State guarantee of the Public Trustee's integrity, the extensive organization of the Department, the accumulated knowledge and practical experience of nearly sixty years, and the long-recognized policy of assiduously preserving, so far as is warranted and practicable, the personal element by officers expert in this class of work. The many expressions of appreciation on the part of clients bear witness to the efficient and sympathetic manner in which their affairs have been handled, and go to show that nothing is being left undone by the Public Trustee to secure the proper fulfilment of his vital obligation

to render the best possible service in the conduct of his business and in the protection of those whose affairs are handled by him.

6. The machinery provided by the organization, coupled with the far-reaching system of representation, has undoubtedly largely contributed to the prompt despatch of the work. An important factor in obviating delay and speeding up the transaction of business is the scheme of decentralization which has been in operation for many years past. The result is that the work is now conducted in well-organized branches throughout the country, in close proximity to the assets and the beneficiaries, and that there is increased opportunity for the cultivation of the personal touch. The possibility of these decentralized units becoming in their turn top-heavy and overburdened is not overlooked, and whenever the volume of business handled by a District Public Trustee warrants it, steps are taken for a further subdivision of his district in such a way as to ensure that each District Public Trustee office will be of easily controlled dimensions. In pursuance of this policy, subdivision of the Napier district was arranged during the year, and additional District Public Trustees established at Hastings and Waipukurau. Arrangements for the subdivision of the Hawera and Hamilton districts are now under consideration.

In addition to the representation provided by the District Public Trustees, the Office has in the smaller centres District Managers working under the control of the District Public Trustees in whose districts they are stationed. Extensions of this representation were made during the year by the appointment of District Managers at Pahiatua and Dargaville. Since the end of the year further appointments have been made at Westport, Taumarunui, Cambridge, Oamaru, Pukekohe, and Rotorua.

7. The Public Trustee discusses the all-important matter of the investment of trust funds, and his remarks illustrate the care that must be exercised by, and the considerations which must weigh with a trustee in his dealings on behalf of his trust. In its Common Fund the Public Trust Office has undoubtedly provided a useful, effective, and distinctly advantageous system of investment for estates. The principal advantages may be conveniently summarized as follows: firstly, the possession of the absolute State guarantee; secondly, the fact that no delay occurs in finding suitable investments; thirdly, the fact that once the money forms part of the Common Fund the interest runs without intermission; fourthly, that the interest is paid promptly, regularly, and in full; fifthly, that immediately capital funds are required for distribution they are available.

Side by side with this Common Fund system provision exists now, and has always existed, for the special investment of estate funds in any instance where a testator or settlor so desires. In such a case the Public Trustee will act as a private trustee acts: he will invest the moneys in trustee securities returning the current mortgage rate of interest, and he will be liable for the funds to exactly the same extent as a private trustee would be liable. It is, therefore, perfectly open to persons who do not favour the Common Fund to provide for special investment. Nevertheless, although the two systems have been operating together since 1891, as the Public Trustee has shown in his report, the vast majority of the clients have shown unmistakable preference for the Common Fund by reason of the many special advantages it has to offer. The advantage of the Common Fund system over that of special investments has been strikingly manifested during periods of financial stringency. In such periods, in common with other lending institutions, the Office must experience difficulty in collecting some of the interest payable under its mortgages, but at the same time the regularity of payment of income to clients whose money is invested in the Common Fund of the Office has always been maintained without interruption.

Whilst on the subject of the Common Fund, I wish to draw attention to the interest in the working of the system shown on the part of trustee concerns outside New Zealand.

8. As will be readily understood, a corollary to the Common Fund system of investment for estates and funds is the finding of investments for the moneys that flow into the Common Fund. The Common Fund can pay no more to the estates and funds whose moneys are invested therein than it earns from the use of these moneys. Unremitting attention on the part of the Public Trustee is therefore necessary to find investments for the moneys in the Common Fund, and the estates

and funds whose moneys fall for special investment. The widespread organization of the Office is invaluable in obtaining a suitable flow of applications, and during the year the volume of investments has been heavy, the money invested amounting to £4,216,590. The investments controlled by the Office at the 31st March, 1930, amounted to £33,764,341, as compared with £30,935,141 at the end of the previous year.

The Public Trustee has made mention of the increasing tendency on the part of private investors and trustees to retire from the field of private investments, particularly those on farming-lands, leaving this type of investment largely to the various lending institutions which possess the organization necessary to select suitable securities and to supervise and guard the investments when made. The figures which have just been quoted afford evidence that the Public Trustee plays a very large part in maintaining the supply of funds necessary to the community.

9. The Office is not designed as a profit-making concern, and its settled policy is to share with its clients the benefits accruing from successful working and improvements in management and control. It has long been clearly shown that, after providing the cost of working and management and the setting-aside of suitable reserves, the aim of the institution is to be no more than self-supporting, and not to seek large surpluses. Having regard to the value of the estates and funds under administration, and the capital moneys in the Common Fund, it will be seen that it is only business prudence that a substantial reserve should be accumulated to provide for the State guarantee, any deficiency that might arise in the working of the Office, and any other contingencies.

At first by means of reduced charges and increased interest, then for a time by way of substantial bonuses out of the annual profits, and latterly again through reduced charges combined with increased rates of interest on amounts held in the Common Fund and the liberalizing of the methods by which the interest is computed, beneficiaries and other clients of the Office have shared in its prosperity. During the year further concessions have been made to clients by way of reduced charges, which should prove of benefit to those concerned. Briefly, the concessions involve a reduction of the minimum fee for the administration of small estates, the reduction being from three guineas to two guineas; a reduction from  $2\frac{1}{2}$  per cent. to 1 per cent. of the commission charge which is made for the administration of compensation-moneys payable in regard to the deaths of deceased workers. This 1 per cent. charge covers all the work involved in the handling of these funds. It may here be pointed out, too, that whilst the compensation-moneys are held by the Public Trustee interest (at present at the rate of  $5\frac{1}{4}$  per cent.) is allowed. Substantial reductions have been made, too, in the fees charged for the preparation of mortgage documents in regard to advances both from the Common Fund and from the special investments controlled by the Public Trustee. It is worthy of note that amongst those who will directly benefit by these reductions will be beneficiaries in small estates and borrowers of moderate means.

In considering the Public Trustee's charges it is important to remember that the services covered include many matters for which, if administered elsewhere, the estates would as a rule have to bear special fees. In connection with such services mention may be made of applications for grants of administration, preparation and filing of stamp accounts, supervision of repairs to properties, the settlement of mortgages, the registering of the Public Trustee's title to property, the preparation of land- and income-tax returns, and the preparation of conditions of sale. When all factors are taken into account it will be found that the Office fees for the administration of estates have always borne favourable comparison with those of concerns conducting similar business in this country.

10. The Public Trust Office is a State Department, and therefore it is the responsibility of the Government to see that the Public Trustee carries out his functions faithfully and efficiently. The bulk of the operations of the institution arise either directly or indirectly out of the administration of estates and funds and other kindred functions, and it will be at once apparent that the Government have not the power, even if they had the desire, to interfere with the Public Trustee in any way in the proper administration of the estates entrusted to him. In carrying out his duties the obligations of the Public Trustee correspond in all respects with those of any other trustee; and, of course, the assets administered by him are not the

property of the Government, but belong to the persons interested in the estates and trusts under his control. I cannot emphasize too plainly that in respect to the business of the Public Trustee the Government are not a tribunal to which appeal should be made concerning contentious matters, and they will not attempt to exercise improper control over him in the conduct of his trustee work. This must be governed solely by the laws and obligations binding upon trustees, in exactly the same way as any other trustee, as the Public Trustee is subject to the jurisdiction of the Supreme Court, and responsible to the Court and his beneficiaries and clients. It is to the Court, therefore, that aggrieved persons should apply for redress. In this connection it is useful to remember that the Office legislation provides a ready and inexpensive mode whereby beneficiaries dissatisfied with any action of the Public Trustee in an estate or trust may apply summarily to the Supreme Court for redress. It will be realized how dangerous and improper would be any attempt to bring any political influence to bear upon the Public Trustee with a view to interfering with his due administration of the estates and trusts committed to his care. Moreover, such a move would be positively unwise, for it would seriously undermine the widespread confidence which the Public Trust Office now enjoys and which it is essential it should continue to hold.

11. The accounting system of the Office is adequately fulfilling the requirements of the large and special business conducted by the Department. The Public Trustee is called upon to make endless remittances and payments, and it is essential that these should be regularly and promptly made. Very great care is given to the preparation of the estate accounts and to the making of expeditious remittances to the beneficiaries, and it is very satisfactory to know that this important side of the Office work is kept up to date.

Besides the large number of branch offices throughout the country, the Public Trustee avails himself of the Post Office for the purpose of remitting money to and from clients of the Office and others living in remoter parts of the Dominion where there are no branches of the Public Trust Office. No charge is made to clients for this privilege, the Office itself bearing the cost of the services rendered by the Post Office. A great deal of business to be transacted by the Public Trustee in England is conducted by the High Commissioner for New Zealand in London, and a proportionate part of the cost of the High Commissioner's office and staff is borne by the Public Trustee. In this way the clients of the Office obtain the advantage of convenient and special service, for which no extra charge is made.

Apart from the matters I have mentioned, special attention is directed to the following aspects of the work, mention of which is made in the Public Trustee's report :—

- (1) The increase in the balance at credit of estates and funds from £31,043,172 to £34,824,210, an increase of nearly £4,000,000 for the year.
- (2) The progress made in regard to the duties imposed on the Public Trustee in connection with the disposal of enemy property and the settlement of pre-war debts between New Zealand and German nationals. A full statement in regard to this work is included in the Public Trustee's report.
- (3) The Public Trustee's statement in regard to his work in connection with claims arising under the Workers' Compensation Act, 1922.
- (4) The Public Trustee's statement regarding the administration of estates of aged and infirm persons.
- (5) The Public Trustee's statement regarding his agency and resealing work.
- (6) The operation of the system of inspection and supervision in force, and also the system of audit in regard to the accountancy work of the Department.

I am satisfied that the Office is in good order, and is rendering dependable service to the public. When regard is had to the large amount of business that is now being transacted, and to the difficult and technical nature of the work performed, the absence of justifiable complaints by clients and other interested parties, and of loss through default of the Department, is most noteworthy.

Wellington, 22nd August, 1930.

GEO. W. FORBES,  
Prime Minister.

## REPORT ON THE WORKING OF THE PUBLIC TRUST OFFICE FOR THE YEAR ENDED 31ST MARCH, 1930.

SIR,—

I have the honour to submit a report on the working of the Public Trust Office for the financial year ended 31st March, 1930.

1. The balance-sheet and accounts disclose the large increase which has taken place in the work entrusted to the Office and the general extension of its operations during the year. This constitutes a record in the history of the Department, and the progressive increase year by year may be fairly taken as a certain indication that it is steadily growing in public favour as a knowledge of its objects and the advantages it offers is disseminated amongst the people.

2. During the past fifty-seven years people interested in all manner of estates, large and small, have had ample opportunities to test the administration of the Public Trust Office, and the size which the business has now assumed is positive proof that the Department has fully stood the test of time.

### THE PUBLIC TRUST OFFICE SYSTEM.

3. The Public Trust Office system has proved an undoubted success wherever it has been established. It was inaugurated in New Zealand in 1872, and has made steady progress ever since its inception. As I will show later on in this report, the estates controlled by the Public Trustee of New Zealand number over 18,500, the value amounting to the phenomenal figure of over £53,000,000, and prospects indicate even greater expansion and more rapid development in the future. The conspicuous success of the Public Trust Office of New Zealand has led to the creation of similar institutions in other parts of the British Empire, and consideration has at times been given to their establishment elsewhere. On the basis of population and total volume of wealth in the sphere of operations, it is apparent that the Public Trustee of New Zealand handles the highest proportion of business of all State officials conducting similar work. On the 31st March, 1930, the Public Trustee, London, administered estates and funds of approximately £220,000,000 in value, the net annual income being £11,000,000, and, although in operation only twenty-two years, from the point of view of volume of business is already acknowledged to be the largest corporation in the world devoted solely to trust work. The Public Trust Office, Sydney, which has been functioning only since the 1st January, 1914, had under administration on the 30th June, 1929, estates of an aggregate value of close on £5,000,000, whilst the value of the estates handled since the commencement of that office is approximately £14,000,000.

### ORGANIZATION.

4. The work for which the Office was principally designed is of a very special character, so that, in addition to those which usually confront large business concerns, it has a number of problems peculiar to itself. Organization is necessary and important in a well-regulated concern of any size, if the business is to be transacted promptly and efficiently and future expansion provided for. As I have pointed out in previous reports, the operations of the Department depend for their efficiency not only upon knowledge on the part of the officers of a specialized and technical order, but also upon peculiar care and accuracy in routine. In the transaction of its extensive business the question of providing an organization which will ensure the proper handling of the manifold matters of complexity and difficulty, and at the same time the judicious, orderly, and vigorous management of routine, is prominent and essential. The type of the Office business, with its numerous relationships and special responsibilities, justifies distinctive organization and

management. With the unremitting increase in the volume of the business, and the prospects of an even greater accession in the future, this question becomes more and more important with the passage of time.

5. The office is concerned mainly with the administration of all classes of estates and the conduct of kindred fiduciary work. The volume of the estates which come under the control of the Public Trustee ranges from those of a trifling amount to those in which the value of the assets aggregates very large sums. Each estate has its own features and characteristics which must be provided for if the business is to be properly and efficiently transacted. It will be recognized that the range of interests controlled includes a unique variety under the management of any one concern.

6. The Office legislation necessarily vests all the powers and discretions in the Public Trustee himself, and originally contemplated that everything would be done by him. This made for centralization of the operations at Wellington, but with the rapid expansion such a system, with all its inherent and attendant drawbacks, would in time have become so unbearable and burdensome that it must inevitably have broken down under its own weight had not a timely change been made. Many years ago it became apparent to those responsible for the running of the Public Trust Office that in order to deal satisfactorily with the estates and assets spread over the whole of New Zealand it would be necessary to remove the bulk of the work from the Head Office, if practicable, and to conduct it in as close proximity as possible to the locality of the estates and beneficiaries. Accordingly, in 1912, legislative authority for a simple and effective scheme of decentralization was obtained, and immediately thereafter arrangements were made for inaugurating this and putting it into operation.

It may here be noted that large trustee concerns in England have also experienced this need for decentralization. In making reference to the benefits accruing therefrom an official of an English executor and trustee company recently stated :—

The other line of policy being pursued in England is that of decentralization. Here what you would call a chain of separate branches is created, each branch being in charge of a manager who is either a qualified lawyer or a man with banking experience who has also undertaken a special training for trustee work. Each of these branches is, of course, under the control of a central head office . . . This very definitely enables the specially trained manager in charge of each branch to be intimately acquainted with the details regarding all the estates under his care. He is also able to maintain that personal contact with co-trustees, beneficiaries, and people who contemplate appointing his company which is so desirable. Customers can be given personal interviews without the fatigue of much travelling, and a considerable amount of letter-writing is eliminated.

Any beneficiary who calls at one of these branches will find an official who not only knows all about his affairs, but also knows him personally. The manager of each branch deals with the sale of all assets which have to be realized in connection with estates under his charge. It is often a considerable advantage that local securities and property can thus be dealt with on the spot.

Under the Office scheme of decentralization, which has been developed and extended since 1912, the whole of the administration of the estates, and a large portion of the work in connection with the Common Fund and special-investment mortgage work and other matters, are, subject to well-trying safeguards, continuous and rigorous inspections by competent Inspectors, and to certain control by Head Office, delegated to District Public Trustees stationed at the principal centres throughout the Dominion. The estate accounts are kept at the offices conducting the administration, and payments to beneficiaries, creditors, and others are made there. It is interesting to observe the striking similarity between the system of decentralization pursued by some trust companies, and referred to by me in the preceding paragraph, and that adopted by the Public Trust Office here in New Zealand.

The branch system of organization has proved itself eminently satisfactory for present-day requirements. Modern ease of communication simplifies central supervision and removes obstacles which were previously experienced in the conduct of branch operations. Nowadays business can be transacted speedily and smoothly, even in those cases where a certain amount of reference to Head Office is necessary.

Not so long ago there were not the means of conducting such business with despatch, but now physical or mechanical obstacles to operating over wide areas are rapidly disappearing. Thus it will be seen that, whilst the plan in operation in connection with the Public Trust Office of New Zealand is primarily one of decentralization, at the same time it combines the advantages both of a decentralized and of a centralized scheme. On the one hand the branch representation, and the powers which have been entrusted to branch officers, make it possible to maintain close contact with the clients and to transact the business promptly on the spot, thus providing a needful elasticity of organization; on the other the retention of a certain amount of centralized control enables advantage to be taken of many of its desirable features, such as the provision of a staff of specialists and experts in Head Office to supervise the branch work generally.

7. It will be abundantly clear, however, that in order to ensure the full benefit being gained from decentralization it is necessary to see that, with the ever-expanding volume of business and the rapid development of the activities of the Department, the District Public Trustee offices do not themselves become too large and unwieldy, thus repeating in these branches the very faults of congestion and overburdening which decentralization was instituted to remedy. Care is therefore taken to limit the size of District Public Trustee offices to manageable and easily controlled units. Whenever the business in a district warrants it the territory controlled by a District Public Trustee is subdivided and a new District Public Trustee office established. In pursuance of this policy, during the past year the Napier district, a large and valuable area, has been subdivided, and two additional District Public Trustees have been appointed, one at Hastings and the other at Waipukurau. A distinct advantage to the Office and its clients, as a result of this subdivision, has already manifested itself, and the action taken has been favourably commented upon by members of the public who have come in contact with the Department in these localities. Arrangements are now under consideration for the subdivision of the Hawera and Hamilton districts.

8. At the smaller centres of population, where the amount of business transacted does not warrant the appointment of officers of the status of District Public Trustees, the Office is represented by District Managers, who are under the control of the District Public Trustees in whose districts they are situated. A system of regulating the relations between the District Managers and the controlling District Public Trustees has been set up, so that the major part of the work may be conducted where it ought to be conducted—*i.e.*, in close connection with the clients and interested persons. In establishing this system care has been taken to avoid or minimize any duplication of work. Further extensions of this representation have been made during the year by the appointment of District Managers at Dargaville and Pahiataua, and since the close of the year arrangements have been made for similar appointments at Oamaru, Rotorua, Westport, Pukekohe, Taumarunui, and Cambridge. Although the Office has every reason to be grateful for the loyal and efficient service rendered by its non-permanent agents, it is found that when the business reaches a certain standard very satisfactory results follow from the appointment of permanent officers who devote the whole of their time to the special work of the Department.

In addition to the District Managers, in the smaller centres, where the population and the volume of business do not justify the expense of maintaining a permanent office, non-permanent agents who are capable of conducting the business in their neighbourhood are retained to act for the Public Trustee.

The chain of District Public Trustee and District Manager offices in the principal centres and non-service agents in numerous other localities provides an exceptionally wide and effective system of representation. It is so regulated that the controlling officers are responsible only for such a volume of business as can be adequately and efficiently handled by them, and proper individual care and attention bestowed upon the management of the clients' affairs.

9. Trust work calls for efficiency and confidence, as well as a touch of sincerity and helpfulness, or, as it has been called by some of those dealing with the subject, "humane effort." As has been said, a trustee must possess a heart as well as business acumen, for his beneficiaries may often stand in need of patient and sympathetic treatment. Even in the humdrum of every-day



business he must never forget this desirable combination of efficiency with sympathy and understanding. In its wide range of activities the underlying principle of trust work is clearly conservation and protection, which should be provided by a "painstaking and efficient service, conscientiously and constantly supplied." It cannot be denied that the "painstaking and efficient service" includes kindly and considerate dealing with the beneficiaries. Whilst foremost consideration must always be given to protecting and managing the estates committed to their charge, trustees have also an interest in seeing that those whose affairs they control receive needed advice and assistance, so far as their duties of trusteeship, their legal powers and authorities, permit, and the circumstances of any particular case warrant. At the same time it must not be overlooked that in the proper performance of their duties trustees must at times be firm and unflinching, even though they may incur the resentment or displeasure of the beneficiaries. It has been well observed that trustees should "early learn that they must not permit their judgment to be warped by emotion or unwise sympathy, and that their highest service is in exercising their wisest discretion in carrying out the duties imposed upon them."

10. In arranging the internal organization of the Department, and especially those units devoted to the administration of estates, due cognizance has been taken of all these facts, and very special attention given to the features and factors of which I have just made mention. Due recognition has been paid to the human element, and provision made for securing direct personal attention and contact in the conduct of the Office business. The work has been subdivided in such a way as to permit of officers to whom it is entrusted having sufficient time and opportunity not only to become acquainted with the details and circumstances of the various estates and the beneficiaries, but also to give ample consideration to the problems and difficulties which are constantly arising. On a number of former occasions I have set out at length the steps which have been taken to provide for the requirements which I have now outlined, but, as certain critics have recently compared somewhat unfavourably the Public Trustee's administration in this respect with that of other trust concerns, I deem it advisable to refer again to this important question. I cannot do better than repeat what I reported a year or two ago:—

The handling of thousands of estates and individual trusts which involve the peculiar concerns and welfare of numbers of beneficiaries raises problems of a very special nature and widely different from those arising in a strictly commercial business. Apart from the question of safety, not the least amongst these is that of assuring the efficient and personal attention to which each estate is entitled. I have shown in earlier reports the serious thought and planning which have been given to the preservation of continuity and of the personal element in the Public Trustee's administration of estates. At all times officers of the Department strive to come into close and personal contact with the beneficiaries and other parties interested in the estate.

The work in all the larger offices is divided into alphabetical sections, irrespective of the class of estate under administration. This arrangement possesses advantages both for the public and for the staff, enabling an inquirer to be directed without difficulty to the officer dealing with the estate concerned, and permitting each officer to be trained in all classes of administration. In charge of each section is an experienced officer who checks the administration, subject to the direction of the controlling officers. Care is taken to assign to an officer only such a number of estates as he can conveniently handle. This permits him to be acquainted with the special features of each estate under his care, and, moreover, he acquires the "personal touch" with the relatives and beneficiaries.

As early as possible the beneficiaries who reside in the neighbourhood are interviewed by responsible officers whom they will be able to consult in the future concerning administration matters. Where the beneficiaries reside elsewhere the same principles are observed in the correspondence incidental to the administration. Letters of a stereotyped and machine-made type are avoided, and the position is put before the interested parties as clearly and simply as possible. In other words, it is the aim of the Office to conduct the administration in as efficient a manner as possible, and at the same time by close individual attention and sympathy to encourage cordial relations with its clients and to inspire confidence in its administration.

The various branches of the Office are co-ordinated in a simple and effective manner, and there is no basis for any suggestion that the conduct of the Office is bureaucratic or that the business is "enmeshed in a web of red-tape." The scheme of decentralization which was established some years ago is in full operation, and has proved of very great benefit to the Office and its clients. Subject to certain safeguards, the administration of the estates, and of a large portion of the investment work, is completed at the various branches, thus facilitating and expediting the conduct of the business to a very marked extent.

With decentralization and the subdivision of the individual branches into sections staffed with experts in their respective spheres, who devote the whole of their business lives to this class of work, it may be safely claimed that the estates are efficiently administered and close attention given to the fulfilment of the wishes of those for whom the Public Trustee acts. At the same time, the methods of administration adopted assure to the estate the preservation of the personal elements and direct contact as far as these are necessary or desirable. It is very gratifying that so many letters of commendation reach the Public Trustee from beneficiaries, in both large and small estates, regarding the manner in which their interests have been safeguarded and managed, and, still more, that so many of the appointments as executor and trustee are from persons who have had previous experience as to the Office methods in dealing with the beneficiaries. Surely these voluntary and unsolicited expressions of appreciation, coupled with the phenomenal expansion of the business, are eloquent testimony that the Public Trust Office is not a soulless institution, and that those responsible for the running of it are constantly solicitous to have the work carried out efficiently and sympathetically. Those unacquainted by personal contact with the work of the Department cannot realize the amount of special duties of a more or less personal nature cheerfully undertaken in the course of the conduct of its extensive business. These include such items as providing adequate and fitting maintenance for numerous minors, the purchase of clothing for boys and girls, the mapping-out of plans of education for infants, the establishing of young men and young women in business when they attain the proper age, and the placing of the sick in homes, hospitals, &c., and so on. From the record of the Office no one need hesitate to utilize its services because of any fear that his family or dependants will be treated in a cold or impersonal manner. On the other hand, testators and others can feel that if they leave instructions they will as far as possible be definitely and impartially carried out, and that no appeal, however importunate, or misdirected sympathy will be permitted to affect a decision if honestly considered to be in the best interests of an estate and its beneficiaries.

### INVESTMENT OF TRUST FUNDS.

11. The trust relationship is one which is jealously guarded by the law, even in cases where no loss in value is involved, and where there is no charge of an attempt to overreach or defraud. In no part of the administration of estates is this scrupulous regard more applicable than in the handling and investment of trust funds. Here the law very properly aims at providing safety for the funds involved, which is also the principal concern of testators and settlors in making their wills and in creating trusts, whether *inter vivos* or *post mortem*.

A trustee must invest trust funds only in such securities as are specified by the trust instrument or otherwise by statute, and nothing will justify his disregard of instructions contained in the instruments and the limitations imposed by statute. On the other hand, a trustee is not justified in unnecessarily keeping trust funds uninvested; and, therefore, in the absence of direction to the contrary in the trust instrument, "if the exigencies of his office do not require otherwise, he should invest the unapplied money in investments authorized by statute for that purpose." The rule is that if an executor invests the testator's money in such investments he is not liable for any depreciation, but if he selects any other form of investment which afterwards shrinks in value the loss will be thrown on him, although there be no *mala fides* on his part.

12. The lure of high returns or other considerations should not induce a trustee to depart beyond the scope of investments provided by the will or trust deed or by statute law. It has been well said on this point—

On no account whatever should a trustee allow himself to be persuaded either by the solicitations of a *cestui que trust* or by the allurements of an apparently exceptionally profitable investment to go beyond the powers given by the law or by the instrument creating the trust. If he does, it is quite likely that he will have reason to be sorry for so doing. He will be committing a breach of trust and will be liable for the consequences of his action.

13. The general rule to guide a trustee in investment of trust funds was reiterated and interpreted recently by the Surrogate of Kings County, New York. Here the Court had before it the question of construction of the words of a will providing that the funds in certain trusts established under the will “shall be safely and conservatively invested by my executors and trustees.” At the time of his death a large portion of the testator’s investments were in securities other than those authorized by statute. The Court held that this provision did not grant authority to invest in other than legal securities. In this case the Court enunciated the duty of a trustee thus :—

The just and true rule is that the trustee is bound to employ such diligence and prudence in the care and management as, in general, prudent men of discretion and intelligence in such matters employ in their own like affairs. This necessarily excludes all speculation, all investments for an uncertain and doubtful rise in the market, and, of course, everything that does not take into view the nature and object of the trust, and the consequences of a mistake in the selection of the investment to be made. It therefore does not follow that, because prudent men may, and often do, conduct their own affairs with the hope of growing rich, and therein take the hazard of adventures which they deem hopeful, trustees may do the same; the preservation of the fund and the procurement of a just income therefrom are primary objects of the creation of the trust itself, and are to be primarily regarded.

Thus it will be seen that the investment of trust funds is a very important element in the administration of estates, and that a trustee is not like a man investing his own money, whose object may be the securing of a larger present income than he could derive from a safer security.

An eminent English authority stresses this point in much the same language :—

Trustees are bound to preserve the money for those entitled to the corpus in remainder, and they are bound to invest it in such a way as will produce a reasonable income for those enjoying the income for the present; and, in doing so, they must use such caution as a reasonably prudent man would use with reference to transactions of a similar nature in which he might be engaged. Not that this means that a different degree of care is required in regard to the conduct of the business of a trust according to whether the trust fund is held in trust for future interests or for one beneficiary absolutely. The question, in either case, is the due care of the capital sum; and, in either case, the trustee is not allowed the same discretion in investing the trust fund as if he were a person, *sui juris*, dealing with his own estate. His duty, rather, is to take such care as an ordinary prudent man would take if he were minded to make an investment for the benefit of other people for whom he felt morally bound to provide: that is, the kind of business “the ordinary prudent man” is supposed to be engaged in. Business men of ordinary prudence may, and frequently do, select investments which are more or less of a speculative character; but it is the duty of a trustee to confine himself not only to the class of investments which are permitted by the settlement or by statute, but to avoid all such investments of that class as are attended with hazard.

To the Public Trustee, handling as he does such a huge amount of trust funds, their due investment is a matter of special moment. This has long been recognized, and the investment system in vogue in his Department since 1891 is exceptionally advantageous, and offers to clients in the alternative methods of the Common Fund and the special investment scheme a unique choice.

### THE COMMON FUND.

14. In last year’s report I made detailed reference to the creation and administration of the Common Fund, and therefore it is not necessary to cover the ground again this year. It is a matter of interest and satisfaction to report that the Common Fund has attracted attention in the United States of America, where corporate trustees are finding it increasingly necessary to adopt investment systems somewhat similar to that employed by the Public Trust Office of New Zealand for nearly forty years. Speaking of this, the publisher of a journal devoted to trust, banking, and financial interests in the United States has acknowledged the influence which the New Zealand scheme has had in the conception and the launching of this new development in American trust service, and adds :—

There is so much keen interest on this subject, and the evidences on all sides are that trust companies of this country must do something similar to what your Office has been doing these many years.

To my knowledge your Office has been the pioneer in operating such a Common Fund for estate or trust investments, and your experience is therefore of very practical value at this time, notwithstanding that your Common Fund has official background and the Common Funds here are operated by privately incorporated institutions.

Apart from the inquiries received from interested persons and corporate trustees in the United States, there is also evidence that the Common Fund is attracting the notice of trustees and others in other parts of the world, and that the essential features of the system—namely, the pooling of the moneys, the investment thereof in first-class securities, and the allowing of a fixed rate of interest on the moneys comprising the pool—are recognized as being eminently suitable for the investment of funds belonging to estates and trusts, whether the amounts involved be large or small. Recently inquiries for information regarding the Common Fund have been made by the Official Guardian of the Province of Alberta, Canada, and from the Public Trustee for the Protectorate of Zanzibar.

15. Before selecting executors or trustees men of affairs naturally ask what is the earning-power of trust funds in such hands. It is true that the Public Trustee cannot guarantee any definite percentage of return on investments for all time; but neither can any other executor or trustee. Such a return is subject to fluctuations from time to time in the rates of interest on securities, and, as the first concern of a trustee must be the safety of the principal, he must necessarily seek such investments as seem most certain to assure safety of both principal and income.

The real and solid advantages conferred by the Common Fund system and its assured return at a fair rate continue to prove attractive to the majority of testators and settlors who entrust their affairs to the Public Trustee, although, as I have previously explained, these clients have a perfectly free choice whether they will adopt that system or whether they will have the funds of their estates or trusts invested in the same mode as is prescribed for other trustees.

16. The requirements affecting life-insurance finance must necessarily somewhat resemble those bearing upon the finance of the Common Fund. The primary element of pooled funds is common to both. The first requirements of investments from both pools must be security and safety; and the necessity of having a proportion of the investments in a form liquid or readily realizable to meet any sudden call is also common to both systems. Evidence that the average rate of interest earned on the Common Fund is as high as possible compatible with the requirements just mentioned is afforded by the fact that for the year 1929 the average rate of earnings of the blended funds of a large insurance concern operating in Australia and New Zealand was slightly less than the average rate of earnings from the Common Fund investments. It may also be mentioned that in order to determine the average yield throughout the United States of America of funds left in trust with trust concerns an interesting survey was made some time ago, and the published result of this shows that the average return to beneficiaries is very little, if anything, in advance of that of the Common Fund of the Public Trust Office.

#### CONCESSIONS TO CLIENTS.

17. It may be said that the Office is, in effect, a mutual concern. Its object is not to make large profits, and its settled policy is to share with its clients and beneficiaries the benefits accruing from successful working. After providing for working-expenses, allocations to reserves required by prudent finance, and a return for the Government guarantee of the Common Fund, any residue of the earnings is returned in one form or another to the clients. In former years this was done by allowing bonus interest, the principle being somewhat the same as that followed by life-insurance concerns in distributing profit by way of bonuses to policyholders. Latterly the concessions to clients have taken the form of reductions in Office charges and increases in the rates of interest allowed. Although perhaps not so apparent, the principle now adopted is no less real than the former one, for the first charge is now made as low and the immediate return as large as possible. It is considered that the system now adopted is the sounder, for it seems preferable to make charges low and first returns as high as practicable, rather than to operate with a larger revenue, a portion of which will subsequently be returned to clients by means of a bonus. Notwithstanding that substantial concessions have been made in recent years both by way of reductions of charges and increases in the rate of interest allowed on funds held, I am pleased to report that, in accordance with the

policy enunciated above, it has been found possible to effect still further concessions during the past year, as follows :—

*Workers' Compensation Act:* It is well known that moneys payable by way of compensation in respect of the death of a worker are, unless the Arbitration Court directs otherwise, paid to the Public Trustee in terms of the Workers' Compensation Act, 1922. In regard to the administration of such funds held in terms of orders of the Arbitration Court, the commission charged by the Public Trustee has been reduced from  $2\frac{1}{2}$  per cent. to 1 per cent. It is to be noted that this is not an annual charge, but a fee levied once only—namely, at the commencement of the administration. This substantial concession will be of material benefit to the widows and dependants of deceased workers on whose behalf the funds are administered. Very important and useful are the services rendered by the Public Trustee in connection with the administration of these funds. These services are set out in another portion of this report, and when it is seen what a large amount of work is performed for this fee of 1 per cent. it will be realized what a moderate charge it is.

*Administration of Estates—Minimum Fee:* The minimum fee for administration of estates has been reduced from three to two guineas. This minimum fee applies to a large number of small estates, which will obtain the benefit of the reduction.

*Mortgage Work—Legal Charges:* With a view to assisting those persons who are not in prosperous circumstances, a new scale of charges for the preparation of mortgage documents by the Public Trustee has been brought into effect. Previously a reduction of  $33\frac{1}{3}$  per cent. on the Law Society's scale was made. The reduction now being made will be seen from the following :—

Amount of Loan.	Reduction per Cent. from Law Society's Scale.
Up to £100 .. .. .	50
Over £100 and up to £500 .. .. .	45
Over £500 and up to £1,000 .. .. .	40
Over £1,000 and up to £2,000 .. .. .	35
Exceeding £2,000 .. .. .	$33\frac{1}{3}$

This reduced scale applies both to loans from the Common Fund and to loans from individual estate funds under the Public Trustee's administration, and is of material benefit to borrowers generally. The increased reduction in regard to loans not exceeding £2,000 is most valuable to town-dwellers desirous of erecting homes, and to small farmers requiring finance. Thus it will be seen that the maximum benefit of the reduction will be enjoyed by those classes of the community who are least able to afford heavy fees.

18. By the regulations governing the Public Trust Office the rates of commission and charges applicable to the various classes of estates are set out in detail, so that testators and other clients are able at any time to calculate for themselves the charges which will be made for the administration of their affairs by the Office. I wish to stress that the fees prescribed in the regulations are the maximum amounts which may be charged. It is recognized that under a fixed scale of charges it is wellnigh impossible to provide for all cases and circumstances, and that without some safeguard rigid operation of such a scale would at times work an injustice. It is to be noted, however, that under the Office regulations the Public Trustee has power to review charges made for the administration of estates, and in appropriate cases to grant reductions. In practice the charges made in every estate or trust are so reviewed, and the fee which is fixed is one considered commensurate with the services rendered. By this means elasticity is given to the operation of the prescribed scale, and provision made for regulating the amount charged by the work involved.

The reductions made in this way must also be taken into account when considering the concessions made to the Office clients. Moreover, it must not be overlooked that the Public Trustee's commission charge covers not only the duties of administration, but also legal and other professional services, and that there are no additional fees for numerous matters incidental to the administration, such as the obtaining of probate or letters of administration, filing stamp accounts, preparing annual tax returns, preparing statements of account, obtaining orders of apportionment in workers' compensation cases, &c.

## LEGISLATION.

19. Very little legislation directly affecting the Office or its work was passed during the last session of Parliament. Of the legislation enacted, mention is made of the following:—

*Town-planning Amendment Act, 1929*: The Town-planning Act of 1926 applies to any property under administration or held or managed or controlled by the Public Trustee as trustee, executor, agent, attorney, or in any other capacity, except on behalf of the Crown. The Public Trustee must, as must any private individual, conform on behalf of those he represents to the obligations imposed by the Act.

In the principal Act the term “regional planning” is used primarily to denote planning for areas which, although not within a borough, are of an urban nature, or which must be taken into consideration when town-planning for a borough is being framed. The amendment of last year provides for planning in regard to such areas to be specified as “extra urban planning,” and further provides for regional planning in its true technical sense—namely, planning having for its purpose “the conservation and economic development of the natural resources of the region to which it relates.” Such planning should make for the more intelligent and profitable use of our natural resources, and for the conservation of those natural assets which, because of their abundance, there has in the past been an inclination to use wastefully.

*Rent Restriction Continuance Act, 1929*: At common law, where a tenant was in possession for an indefinite term it was the inherent right of the landlord to recover possession of his property by giving an appropriate notice to quit, and by taking the necessary proceedings through the Courts if the tenant did not vacate at the expiration of the notice. The position of the landlord at common law was, however, encroached upon in 1916 when the War Legislation Amendment Act included measures for the protection of tenants from eviction and for limiting the rent chargeable by landlords. These measures, in a modified form, are still in force. Last year legislation was passed continuing the operation of the Rent Restriction Continuance Act, 1929, until 1930. The operation of the Act has been extended, with some modifications, during the present session of Parliament, but that comes into the current year’s operations. The Public Trustee, on behalf of the estates and trusts under administration, controls a large number of tenancies, and therefore the enforcement and performance of the provisions of such measures, which are an important factor in this branch of the Office work, add to the already numerous technicalities of estate management.

## FINANCE.

20. That the advantages of the Common Fund are fully realized by the clients of the Office is shown by the large increase in the sum now held in that fund on behalf of estates and funds, the amount at the 31st March, 1930, being £24,014,191, representing an increase of £2,071,144 over the figure at the 31st March, 1929. With a fund of such dimensions it is constantly necessary to make provision for the heavy demands for money arising from the distribution of estates, the maturity of sinking funds, and other similar payments. By a regular review, at short intervals, of its commitments the Office is enabled to keep its funds closely invested and simultaneously to be in a position to meet the innumerable payments required on behalf of estates.

The prompt investment of all available funds is most essential in view of the liberal terms upon which interest is credited on moneys invested in the Common Fund. Both the principal and interest thereon being guaranteed by the State, it is, of course, equally necessary that all investments of the Common Fund should be authorized trustee investments. With its complete organization and representation throughout New Zealand the Office has been able to secure first-class securities for its mortgage investments, besides financing the loan operations of many local bodies.

## INVESTMENTS.

21. In keeping with the increase in the amount held in the Common Fund, the volume of investments completed during the year amounted to £4,216,590, which represents an increase of £1,025,948 over that for the previous year.

Including special investments on behalf of estates and funds, the total investments held by the Office at the 31st March, 1930, amounted to £33,764,341.

## ADVANCES TO ESTATES AND BENEFICIARIES.

22. In many districts difficulty has been experienced during the year in realizing assets, due to unfavourable market conditions. This difficulty would have entailed serious results to estates which had insufficient liquid assets to meet pressing liabilities, but for the assistance afforded by the Public Trustee under his statutory powers enabling him to advance money to those estates on the security of the assets. The accommodation thus provided has made possible the postponement of the realization of the assets until the condition of the markets improves.

The necessity of providing funds required for payment of debts, death duties, and other pressing liabilities, as well as current living-expenses of dependants, within a comparatively short period from the date of a person's decease makes this power of advancing money a decided advantage of the Public Trustee's administration. It is important, too, to remember that, in these advances from the Office funds to estates, no legal charges are incurred, seeing that the Public Trustee has a statutory charge over the whole of the assets of the estate concerned, subject, of course, to any prior encumbrances. Besides, there is also this advantage—viz., that as soon as moneys are available to be applied in reduction of the advance the interest charge ceases upon the portion repaid.

In the same way prompt assistance can be afforded to beneficiaries who desire to obtain advances on the security of their interests in estates the assets of which it may not be either possible or desirable to realize immediately to the best advantage.

Current advances to estates and beneficiaries at the 31st March, 1930, amounted to £403,564.

## TRUSTEE FOR DEBENTURE-HOLDERS.

23. In forty instances the Public Trustee is trustee under deeds of trust for the protection of debenture-holders with respect to debentures totalling £1,061,716. This amount is not included in the figures showing the value of estates and funds under administration at the 31st March, 1930.

## ANNUAL ACCOUNTS.

24. The annual accounts disclose a profit of £10,996 15s. 2d. In view of the conditions prevailing during the year, and of the fact that the full effect is now being felt of the many concessions which have been granted to beneficiaries in estates and to other clients of the Office during recent years, the result is regarded as satisfactory.

## GENERAL LEGAL EXPENSES ACCOUNT.

25. As I have remarked in previous reports, the General Legal Expenses Account was established to bear the cost of Court proceedings to determine questions of law which were of general interest to estates under administration, and in connection with which it was deemed inequitable to charge the expense to any particular estate.

During the year under review the costs in connection with several questions of law which have been brought before the Court for determination have been charged to this account.

## VALUE OF ESTATES, ETC., UNDER ADMINISTRATION.

26. The gross value of estates and funds under administration by the Public Trustee on the 31st March, 1930, amounted to £53,049,437, representing an increase for the second year in succession of more than £4,000,000.

## VALUE OF NEW ESTATES, ETC., ACCEPTED.

27. In a statement made in July of last year, the late Right Hon. Sir Joseph Ward forecasted that the new business obtained by the Office for the year 1929–30 might possibly reach the sum of £8,000,000. It is gratifying to record that this figure was exceeded, the new business for the year under review having reached the unprecedented total of £8,473,916, as compared with the total new business of £7,091,350 for the preceding year, which itself constituted a record.

From the comparative table contained in paragraph 28 of my report it will be seen that the new business for the year exceeded by over £1,000,000 the total value of estates and funds under administration by the Public Trustee in 1910.

## GROWTH OF THE OFFICE BUSINESS SINCE 1900.

28. As an illustration of the remarkable extension of the operations of the Office over the past thirty years, the following table reveals the value of estates under administration by the Public Trustee at five-yearly periods since 1900 :—

Year ended 31st March,					Total Value of Estates in Office, including Unrealized Assets.	Funds at Credit of Estates and Accounts.
					£	£
1900	..	..	..	..	2,192,594	1,065,112
1905	..	..	..	..	3,577,355	1,913,268
1910	..	..	..	..	7,358,947	3,453,127
1915	..	..	..	..	13,580,936	7,182,416
1920	..	..	..	..	20,860,686	11,911,290
1925	..	..	..	..	35,570,642	20,864,356
1930	..	..	..	..	53,049,437	34,824,210

## GOVERNMENT SUPERANNUATION AND OTHER FUNDS.

29. A steady increase has been recorded in the volume of cash and investments administered by the Public Trustee on behalf of the Public Service Superannuation Fund, the Teachers' Superannuation Fund, the Government Railways Superannuation Fund, and the National Provident Fund.

It is of vital importance to these funds that the maximum net return by way of income should be earned by their investments, and by utilizing the Public Trust Office organization throughout New Zealand the costs of collection of income and of administration of the investments are kept at a very low level. For the whole of its services in connection with the funds the Office makes the moderate charge of 2½ per cent. on the income collected from the investments.

In addition to the funds above mentioned, four other smaller Government superannuation funds are administered by the Public Trustee. In these cases the funds are invested in the Common Fund, and the following amounts were so invested at the 31st March, 1930 :—

	£
Civil Service Act, 1908 .. .. .	9,886
Deferred Pay (Naval) Account .. .. .	50,752
Post and Telegraph Act, 1908 .. .. .	4,947
Public Service Classification and Superannuation Act, 1908 (section 31) .. .. .	4,420
	<u>£70,005</u>

## LOCAL BODIES' SUPERANNUATION FUNDS.

30. During the year the total amount held by the Public Trustee invested in the Common Fund on behalf of local bodies' superannuation funds increased from £217,680 to £243,264. The smallest contribution becomes interest-earning from the date of its receipt by the Office, and the moneys are fully invested, but yet immediately available as required to meet the demands of withdrawals on behalf of contributors to the superannuation funds.



## LOCAL BODIES' SINKING FUNDS.

31. On the 31st March, 1930, the Public Trustee was acting as Sinking Fund Commissioner in respect of 2,827 loans raised by local bodies. This represents a net increase during the year of 175; but the number of new appointments exceeded this figure, since a considerable number of sinking funds are closed annually by virtue of the maturity and repayment of the relative loan.

## RENEWAL FUNDS OF LOCAL BODIES.

32. The statutory provisions authorizing Municipal Corporations and Electric-power Boards to invest their depreciation funds in the Common Fund of the Public Trust Office are contained in section 48 of the Municipal Corporations Amendment Act, 1928, and section 21 of the Electric-power Boards Amendment Act, 1927, respectively.

At the 31st March, 1930, the Public Trustee was Renewal Fund or Depreciation Fund Commissioner for seventeen local bodies.

## MISCELLANEOUS ACCOUNTS AND FUNDS ADMINISTERED.

33. Among various miscellaneous funds which the Public Trustee is called upon to administer are the following:—

New Zealand Sheepowners' Acknowledgment of Debt to	£
British Seamen Fund .. .. .	38,987
Electric-power Schemes Deposits Act .. .. .	500
Government Fire Insurance Fund .. .. .	54,985
Government Stores Marine Insurance Fund .. .. .	11,140
	<hr/>
	£105,612
	<hr/>

## SAFE-DEPOSIT LOCKERS.

34. The advantages of the safe-deposit locker system which has been installed at many of the Branches of the Office throughout the Dominion are being availed of by an increasing number of clients. Housed in suitable strong-rooms, these lockers afford, at a moderate cost, security against loss by fire or theft. Lessees may gain access to their lockers at any time during ordinary business hours. As a result of the extent to which these facilities are appreciated, it became necessary to install additional lockers during the year.

In order that clients may receive a full measure of protection, the Office spares no pains to ensure that every precaution is taken by officers dealing with this phase of the work.

## OFFICE BUILDINGS.

35. As stated in my last report, the continued expansion of the Office business has rendered necessary additional accommodation for the staff at certain Branches. At the time of their erection some of the buildings which have been extended were considered to be large enough to provide ample accommodation for future requirements, but the growth of business in these districts has so far exceeded expectations that extensive additions were essential.

During the year extensions were effected at Wanganui, Hawera, Invercargill, Nelson, and Palmerston North.

The new office erected at Dunedin was occupied in May of last year. Favourable comments have been made by all who have had an opportunity of inspecting this building, which has been planned on the most modern lines, and embodies all the requirements for the effective and economical control of the staff. This improved accommodation has also added to the comfort and efficiency of the staff and the convenience of clients of the Office, and is in keeping with the volume and importance of the work conducted by this Department.

## STAFF.

36. The question of providing suitable staff is one which is constantly before those responsible for the conduct of the Office. Without a competent staff the most careful organization will not function properly, and in choosing staff for a concern such as this, particular care has to be paid to the essentials required in a trust officer. In dealing with the organization of the Office I pointed out earlier in this report the importance of the human equation in conducting trust work. It will be useful to quote here what I said on a former occasion in regard to the desirable qualities of a good trust officer :—

Having regard to the varied and responsible nature of their work, trust officers have laid upon them constant calls on their knowledge, experience, alertness, and judgment. The ordinary routine clerk can play but a very small part in the establishment of a trust concern. Men of knowledge, initiative, adaptability, and personality are called for, because the personal equation is no small matter in this class of work. As has been well said, an officer performing trust duties must not only have the requisite technical and general knowledge, but also the personality, versatility, and other qualities, to suit him for the varied character of the work, and for dealing with the varying types of persons. Such an officer must realize also the importance of the human element in the administration of estates, and must be able to impart a personal touch to his correspondence, interviews, and dealings generally.

Essential attributes of a trust officer are reliability and frankness in his dealings with his beneficiaries, combined with a due appreciation of his obligations of secrecy in the presence of outsiders in respect of the interests handled by him. When we consider the confidence reposed in him, the extent of his knowledge of the private affairs of numbers of persons in the community, it will be realized what untold mischief might be caused were he to betray his trust by divulging in any undesirable way the confidential facts in his possession. The Office takes very special pains to preserve proper secrecy, and every officer has to make an oath of secrecy and fidelity before being employed in the Department.

Administration work very frequently arises after bereavement. Beneficiaries and others—at any rate, in the first stages of the administration of a deceased person's estate—have usually suffered the loss of a kinsman or some one who is near and dear to them. Widows and orphans or persons recently bereaved are amongst a trust officer's daily clients. To such persons the personal touch and kindly, sympathetic, and humane dealing mean a great deal.

Whilst it is desirable that a trust officer should be patient, long-suffering and kind, yet he must be firm and steadfast in essentials. A trustee should not confuse sympathy with slackness or inaccuracy. In his dealings he cannot afford to take the line of least resistance, and to say and do only the pleasant things. It is not easy at times to refuse the supplications of those in sad or distressing circumstances, but, if the granting of those requests entails a breach of trust or adversely affects the interests of others, his duty is clear and must be firmly and honestly fulfilled. It is the function of a trustee to give effect to the wishes of a testator or settlor as far as possible.

Specialists in all branches of the Office work—administration, legal, accounting, investment—are attached to the permanent establishment. There are now 111 officers who have completed the Law Professional Examination, a number of these being also qualified barristers; ninety-one who have passed the Professional Accountants Examination, three of whom have also graduated in commerce. In addition to these, a number hold other University degrees or academic qualifications.

37. For many years past a great deal of attention had been devoted to the building-up of an adequate and efficient staff for the Department. The task has been a slow and tedious one, and, as will be realized, could not be accomplished by stroke of the pen, but only after long years of patient waiting. I am pleased to report that the efforts in this direction have been very successful, and that the staff is now ably fulfilling the heavy demands placed upon it by the large and rapidly increasing business. Schooled in the practice of trustee and administration law, familiar with accounting requirements and the handling of shares, stocks, bonds, debentures, real estate, life insurance, and the multifarious miscellaneous matters pertaining to the numerous assets and concerns found in the long list of estates handled by them, having intimate knowledge of the ever-changing and intricate problems of modern taxation and finance, readily available, and backed by the unique experience and accumulated knowledge of the Department, the members of the staff of the Office are well equipped for the performance of the duties entrusted to them. When account is taken of its plan of organization, its method of working, and the qualifications, experience, and special training of its staff, it is no exaggeration to say that the Public Trust Office is exceptionally well fitted, and is capable of handling the enormous and steadily growing volume of work entrusted to its care.

38. The principal staff changes and appointments during the year were the appointments of—

- (1) Mr. A. S. Faire, District Public Trustee, Palmerston North, to the position of District Public Trustee, Auckland.
- (2) Mr. K. A. Henderson, District Public Trustee, Gisborne, to the position of District Public Trustee, Palmerston North.
- (3) Mr. F. W. Browne, Assistant Controller, Mortgage Division, Head Office, to the position of District Public Trustee, Napier.
- (4) Mr. P. C. Dwyer, Assistant District Public Trustee, Dunedin, to the position of District Public Trustee, Gisborne.
- (5) Mr. A. Bell, Director of Training Classes, Christchurch, to the position of District Public Trustee, Greymouth.
- (6) Mr. C. A. Hendry, Estates Administration Clerk, Masterton, to the position of District Public Trustee, Hastings.
- (7) Mr. A. O. Williams, District Manager, Waipukurau, to the position of District Public Trustee, Waipukurau.
- (8) Mr. D. Ferguson, Assistant Solicitor, Mortgage Division, Head Office, to the position of Assistant Controller, Mortgage Division, Head Office.
- (9) Mr. E. Collins, First Assistant District Public Trustee, Auckland, to the position of Director of Training Classes, Christchurch.
- (10) Mr. J. P. White, Estates Administration Clerk, Whangarei, to the position of District Manager, Dargaville.
- (11) Mr. W. L. Tattle, Clerk, Head Office, to the position of District Manager, Pahiatua.

#### TRAINING OF JUNIOR OFFICERS.

39. I have outlined above the necessary requirements of a satisfactory trust officer. It is of prime importance that in selecting officers to be engaged upon the administration of estates there should be found those who will be capable of mastering the difficulties and technicalities of this special work and of adapting themselves to the varying classes of duties they will be called upon to perform.

In the problem of finding men who will competently fill the role of trust officers are encountered many difficulties and drawbacks. Attempts to recruit from the ranks of those trained for ordinary commercial duties do not prove altogether satisfactory. A knowledge of commerce and business affairs is undoubtedly of great value to a trust officer—in fact, such a knowledge is to some extent indispensable to the proper conduct of his work; but the administration of estates involves more than this, and is so far-reaching in its ramifications that a commercial training alone is far from an adequate equipment for the due performance of the manifold duties it includes.

A trust officer must be a man fundamentally trained and fitted for the proper administration of estates. It is a technical business. . . . Merely because a man has been successful in another branch of business is no sign that he is fitted to take charge of a trust business. On the contrary, sometimes commercial experience gives a knowledge and an attitude that are entirely inadequate for the administration of trusts and estates.

Under these circumstances a trustee concern cannot solely rely upon finding outside its own precincts additional staff sufficient to cope with the expanding business, and to fill vacancies which must necessarily, from one reason or another, be constantly arising in a large organization. Thus such a concern must inevitably be forced to take steps in the direction of training for itself staff to meet its requirements. The most suitable source of supply has been found to be from the ranks of the junior members of the establishment, and experience has proved that the result in future years will amply compensate any special attention devoted to their training in the earlier period of their service. Particular care is paid to the selection of juniors, and as far as possible only those who give promise of satisfactory development are appointed. Obviously, factors such as educational qualifications, personality, appearance, and general address are taken into account. The appointees are placed upon a period of probation, during which their progress is under careful scrutiny. They are encouraged to take an intelligent interest in all phases of the Office work,

and to qualify themselves for more responsible duties by undertaking some course of study which will be beneficial to the Department and to themselves in their official career.

In any large business establishment it is inevitable that a number of the juniors are placed upon more or less routine work, and that in consequence it is extremely difficult for them to acquire an all-round knowledge of the scope and activities of the concern. Others, although they acquire valuable experience from the duties allotted to them, do not gain full value therefrom by reason of the fact that their controlling officers cannot devote sufficient time to their detailed instruction. In view of this it has been found of distinct value to place upon a systematic basis the training of junior officers who have passed the probationary stage, and who thus have had sufficient service to enable them to acquire some degree of experience and knowledge of the Office and its operations, and to benefit by tuition in higher work. Accordingly, for several years past a system of training classes has been in operation. From suitable juniors of about three to four years' service a selection is made annually to form a class for the year. When the term of class training of these juniors has expired they are allocated amongst the various branches as requirements demand.

Experience has shown that the best method of instruction is one combining theoretical with practical training, and this is the system which has been adopted. An officer experienced in administration, legal, and other phases of the Office work controls the class as Director, and gives instruction in the theoretical portion of the syllabus. With him are associated two instructors—one experienced in administration and legal matters, and the other a professional accountant qualified in all branches of the Office accounting work—who direct and supervise the practical work of the class.

The Office training system has been well tried over a period of years and has fully justified itself. The result has shown it to be of very material assistance to the Department in providing a staff fitted to carry out the exacting and onerous duties devolving upon it in the course of the conduct of such a large estate administration and trustee business.

#### SHORTHAND-TYPING WORK.

40. Nowadays shorthand-typing represents a very necessary and important portion of the duties which require to be performed in connection with the conduct of business, and in an office like the Public Trust Office a competent staff of shorthand-typists is especially essential. The preparation and typing of so many wills and other important legal documents require scrupulous care, and at times the utmost promptitude; no erasures or blemishes can be permitted, and often a long and complicated will has to be typed at very short notice. The typing and setting-out of the voluminous correspondence and the endless stream of statements of account call for minute care and prompt handling. Particular attention is therefore paid to the shorthand-typing work. With a view to improving the standard at the smaller branches and ensuring uniformity, some of the shorthand-typists from these centres have, during the year, been brought to Head Office and given special training and tuition. The arrangement has been found to be of distinct advantage, and will be repeated as occasion requires. Experience has shown that a period of about three months' training is necessary to enable the operators selected to take advantage of the facilities which the scheme affords.

#### LIBRARY.

41. It is very necessary for the proper performance of the work that officers have available for reference a well-equipped library. The administration of estates includes a wide field of human activities, and in its extensive ramifications involves the handling of matters covering finance, commerce, accountancy, law, and investment work. Moreover, with its rapidly expanding business it is very necessary for the Office to keep abreast of developments in matters of organization, routine, business methods and practice, especially those pertaining to its particular field—that of trustee work.

It is only to be expected that the greater part of the technical portion of the Office library comprises text-books and reports and other publications dealing with legal matters. These cover the recognized text-books and books of reference, as well as law reports both of English and New Zealand cases, publications on forms and precedents, and gazettes. There are also the standard works on accountancy, auditing, and finance, and books dealing with mortgage and investment matters and administration work generally. For the War Regulations and the Clearing Office work it has been necessary to have copies of the Treaties of Peace with the various ex-enemy countries, the reports of the tribunals and other authoritative bodies set up under the Treaties of Peace to adjudicate on disputed claims, copies of various post-war agreements between the Allied and ex-enemy Powers, and certain standard books on war and treaty legislation. Current publications covering trust work, business methods, office routine and machinery, accountancy and finance, as well as publications and bulletins dealing with agricultural, dairying, and pastoral matters in New Zealand, are also provided. These are circulated amongst the controlling officers of the Department for their information, and upon return filed for future reference.

## RECORDS.

42. In connection with trustee records it was recently stated :—

The “estate” should be the unit, and the records relating to each estate should be complete. It should be possible to call for the files relating to an estate and to have before you the whole of the information and records relating to that estate. This would include correspondence files, the accountancy file, the real-estate file, and any other files it has been found necessary to keep. It is true, of course, that these separate files may have to be lent to different departments when special work thereon is in progress, if duplication of records is to be avoided, but they should be returned to the central filing system.

The Office record system is simple and effective. A separate file is kept for each estate or other matter, and to this are attached all relative correspondence and papers other than valuable documents. In estates with numerous assets and other matters of complexity, where the file can with advantage be subdivided, appropriate sub-files are made. Obviously the practice facilitates the handling of these matters, as it enables the relative papers in regard to them to be segregated, and perusal of a voluminous mass of correspondence and records having no bearing upon the point under consideration at the moment to be avoided.

In many estates and trusts the administration continues for long periods of years, and, as may be expected, in the course of time the incidental records become very bulky. To keep the records up to date, all dead matter is removed from the current files and separately filed for reference as occasion requires. Likewise, when the administration of an estate or fund is completed, the relative papers are removed from the current files and filed in numerical sequence with those of other “closed” matters.

I must point out, however, that important papers and deeds are never kept on the files, but are separately stored in suitable strong-rooms under competent and safe custody.

At Head Office and at the larger branches there are record sections to handle the record and mail work and to perform other general duties in connection with the conduct of the business. The care of records is an important matter, and every precaution is taken to afford facility in handling and convenience of reference. Steel fixtures have been installed in Head Office and certain of the Branches for the storage of the files, which are periodically overhauled and supervised in order that they will be maintained in good condition and that no papers attached to them may become torn or mutilated.

## ADMINISTRATION OF ESTATES.

### NEW BUSINESS.

43. In the year under review there has been by far the largest accession of new business that the Office has yet experienced. New estates and funds to the number of 3,845, of an aggregate value of £8,473,916, were accepted for administration during the year. This striking total exceeds by over £1,370,000 the very substantial

aggregate of approximately £7,100,000 which represented the new business of the previous year. The result must be regarded as most encouraging, and, as I have already pointed out, is a reliable index of the wide appreciation of the manner in which the business is conducted, and is highly significant of a real and expanding demand on the part of the public for the services of the Department.

44. In conducting the administration of estates and funds valued at over £53,000,000 the Office comes into contact with thousands of persons throughout the length and breadth of New Zealand and elsewhere. The large number of wills and trusts estates placed under the Public Trustee's administration continues a pleasing feature of the new business, and it is logical to assume that these estates will increase at an even greater ratio in the future, for, as I have shown in another portion of this report, the wills deposited with the Office have now reached a total of nearly 69,000. These are imposing figures, and constitute striking evidence of the truly remarkable voluntary recourse to the services of the Office which is being made throughout the Dominion, and also by persons abroad having affairs to administer in this country.

Intestate and mental-patient estates continue at much the same level both in number and value as last year. A very necessary and valuable service is rendered by the Public Trustee in the administration of these estates. Often intestate estates comprise properties of small value and the persons interested therein possess but modest means, so that in providing expeditious administration at the minimum cost the Office fulfils a public need. In regard to the estates of mental patients, frequently the same considerations largely apply, but there is also the additional special feature that, by reason of the helpless condition of the owners, it is essential that the State provide adequate protection of the assets wherever required.

It is not only in the administration of estates and the conduct of other fiduciary work that the services of the Office are being largely employed. A growing proportion of the business reported arises from the appointment of the Public Trustee as Commissioner for sinking, renewal, depreciation, and other funds of this nature. The Common Fund provides an admirable system of investment for such funds. Indeed, it can be justifiably stated that for funds of this kind this mode of investment offers incomparable advantages inasmuch as it provides at one and the same time for the absolute safety of all amounts received, the immediate and constant investment of instalments, however small or broken they may be, a fair return on the moneys so invested, and the liquidity of the total, so that it is available whenever required for the purposes for which the fund was established. These outstanding advantages are being increasingly recognized by local and other public bodies.

45. It is difficult to grasp the responsibility involved in controlling estates and funds of such a large value. Were it possible to visualize the vast number of persons whose interests are handled by the Public Trustee and whose welfare depends upon wise administration on his part, some idea of that responsibility might be gained. The record of the Office shows clearly that in the conduct of its work, the fact is always borne in mind that it was created for the service of the public, and that the best interests of those whose affairs it controls must constantly be the paramount consideration. The vision of the farseeing founders has been amply realized, and to-day the Office undoubtedly stands as one of the earliest, most useful, and most successful of State enterprises.

#### EFFICIENCY OF ADMINISTRATION.

46. It is not surprising that nowadays a good deal is said and written concerning the human touch and personal element in estates work, for, as I have already shown in this report, these are rightly regarded as important features in connection with it. On this, as well as on previous occasions, I have gone to some pains to show that the Office manner of conducting what is recognized as the principal side of its operations cannot be justifiably characterized as "soulless, impersonal, and routine." At the same time, I am not unmindful that whilst the maintenance of the personal contact is essential in the successful administration of trusts and estates, yet the real test in the final analysis must always be the quality of the work performed. Sympathy and familiarity with the personal concerns and problems of the individuals

are very pleasing and not to be belittled, but it is of far greater value to beneficiaries—widows, minors, and dependants of the testator or the intestate—to have their affairs attended to with efficiency, safety, expert judgment, and the kind of care which protects the corpus and safeguards the income. Dispassionate critics will agree with the writer who says :—

Personal contact is doubtless an agreeable and desirable thing in trust work, but much more important are the factors of intelligent experience and responsible management.

The first question, therefore, in the conduct of the administration business is the manner in which the work is handled and the quality of the services rendered. If these give satisfaction to the interested parties a valuable goodwill is at once established with those who have been brought into contact with the Department, and the growth of the business will then be the normal and logical result. The tremendous success of the Office in recent years lends adequate support to this statement.

Upon the acceptance of office an executor or administrator must immediately take a lively interest in the management of the affairs of the deceased. He must take prompt steps to protect the assets of the estate and to assume control of them. A number of urgent steps should move synchronously with one another, and danger and delay may result if the administration is conducted in a piecemeal or haphazard fashion. To guard against this, many years ago the Office instituted a system of frequent review and has adopted other means to see that the administration of every estate is advanced as rapidly as the circumstances will permit.

#### ACCOUNTS AND REMITTANCES.

47. In the administration of estates it is the duty of an executor or trustee to keep faithful and accurate accounts, to produce them to any beneficiary when called upon to do so, and to furnish him with all reasonable information as to the manner in which the estate has been dealt with and as to the investments representing it. If an executor or trustee fails to do this he may be ordered to pay the costs of any application to the Court rendered necessary by his default.

Administration accounts should be as concise and as easy to follow as possible, but at the same time must furnish an adequate and accurate statement of the position of the estate property. Frequently the administration involves a great deal of detail work and numerous and, at times, intricate accounting entries. In drawing statements of account for beneficiaries the problem is to incorporate this detail and to show the entries in a form which may be followed with a minimum amount of difficulty. It will be readily understood that a large number of persons receiving administration accounts are not professional men, are unacquainted with trustee and accountancy practice, and possess little or no business experience. In compiling accounts, therefore, an endeavour must be made to set out the items in such a way that, whilst the statement of account is complete in itself, it is in a form which permits of easy and intelligent perusal by the average person.

Experience has shown that the cash statement is the most suitable form to adopt. The Office accounts are kept upon a system which carries out to the full the principles of double entry, but this is not necessary for each individual estate or trust, and, indeed, statements in this form would not be sufficiently informative to the majority of the beneficiaries. Although accounts prepared upon the commercial system are clear to those familiar with matters of accountancy, they are not so easily followed, in the ordinary course, by inexperienced persons. For this reason the estate accounts take the form of a summarized and analysed cash statement, supported by a list of unrealized assets and liabilities outstanding. By analysing and grouping the items under proper headings the recitation of a large number of entries is avoided and the incidental narration minimized. This accounting system has stood the test of years and meets all the demands made upon it. The accounts are regularly prepared and despatched to those interested, and, though in a trust business of the dimensions controlled by the Public Trustee this is a heavy task, I am pleased to say that this important branch of the administration work is thoroughly up to date.

48. In the estates of deceased persons, after the payment of debts, administration expenses, and other liabilities, the balance remaining is held for the beneficiaries in accordance with the provisions of the trust instrument, or for the next-of-kin in the event of intestacy. Remittances to the beneficiaries are therefore also an important matter in the estates work. The Office organization provides for payments to be promptly made, or securities and other valuables to be readily transmitted, to persons entitled wherever they may be throughout the Dominion. By means of the extensive system of representation throughout the country and the utilization of the resources of the Post Office, payments can be readily made in every town or district. In this way a substantial saving is effected for the beneficiaries and clients, for this wide representation and the services of the Post Office enable payments to be made anywhere in New Zealand free from exchange.

It is not only to persons in New Zealand to whom in the course of his many duties the Public Trustee is called upon to account. Large numbers of his clients are resident overseas, not only in the British Empire, but in foreign jurisdictions, sometimes in remote and out-of-the-way regions, and so year by year it is necessary to arrange for payments in almost every part of the world. In Great Britain payments are usually made through the High Commissioner for New Zealand in London. The advantages of having in London the agency services of the High Commissioner are numerous, and are much appreciated by clients resident temporarily or permanently in the British Isles. In regard to remittances to other countries, the wide-spread organization of modern banking enables payments to be made safely and expeditiously in most places. In regard to payments in remote foreign communities, the services of the Consuls for the respective countries are availed of as occasion requires. There is a provision in the Public Trust Office Act, 1908, authorizing the payment of moneys and the delivery of chattels to consuls in New Zealand for transmission to the persons beneficially entitled in cases where those persons are actually residents of the foreign country which the Consul represents. Before payment or delivery can be made to a Consul under the statutory provision it is necessary that he be nominated for the purpose by the Governor-General. This has proved to be a most useful and convenient mode of accounting to foreign beneficiaries, and has enabled payments to be arranged when otherwise it might not have been possible to effect them in any other way.

#### PERSONAL EFFECTS AND BELONGINGS.

49. In conformity with the recognized duty of an executor or administrator, the greatest care is exercised by the Office in the handling of the assets in the estates to protect the interests of all concerned, and to ensure that no trinkets or personal belongings or effects fall into unauthorized hands, but that everything belonging to the deceased is scrupulously accounted for. Sometimes this is a difficult matter. A testator or intestate may die amongst strangers or persons to whose interest it would be to conceal information concerning some of the possessions. Careful investigation and inquiry are often necessary, and on occasions resort must be had to drastic legal action to secure possession of the property of a deceased person. At times, for one reason or another, the personal belongings have to be sold at public auction, and, although forced in these instances to follow this course, through circumstances over which he has no control, the Public Trustee is now and then subjected to much undeserved criticism over such matters. I therefore wish to emphasize that the conduct of the sale of articles of a personal or sentimental nature, either by public auction or otherwise, receives thoughtful treatment at the hands of the Office, and that it is carried out with as much delicacy and diplomacy as possible, and with the minimum amount of publicity consistent with doing the best for the estate. The feelings of the relatives are recognized and respected so far as the circumstances of the case will allow. Wherever possible, personal articles are not sold to strangers until the relatives have had an opportunity of purchasing them at approved prices. It will be readily understood, however, that unfortunately, for numerous obvious reasons, this cannot always be done. Where there is dissension or discord amongst the beneficiaries or relatives, irritating and difficult questions arise concerning the



disposition of personal effects, jewellery, and household furnishings. The law deals with the problem of distribution broadly and generally, and frequently the ordinary will makes but scant, if any, provision for the proper handling of the situation. A parent may have promised to one member of his family a certain picture or a particular piece of silverware; another may have promised his eldest son his gold watch; a mother, her youngest daughter her diamond earrings; and so on. Very likely when the will comes to be read it will be found that no specific disposition of such personal chattels has been made, and that they must pass into the residue of the estate, to be divided equally amongst all the children. In cases like this a great deal of pettiness can be displayed, and in its long experience the Office has seen numerous disagreeable and unhappy situations arising from the disposition of articles of a personal or sentimental nature. Disputes of this kind call for delicate and tactful handling, and involve a great deal of effort before they are satisfactorily settled and the administration of the estate can proceed smoothly.

This is often a thankless and unpleasant task, for interested persons are prone to misconstrue the efforts of the personal representative, whether he be the Public Trustee or any other executor or administrator, and are likely to criticize him for adhering to the terms of the will or the law, and delivering the desired trinkets or other effects to those entitled by the testamentary directions of the testator or by the law governing the distribution of estates in the particular set of circumstances. I am glad to say that by patience and tact, and, where necessary, firmness, the efforts on the part of the departmental officers have on many occasions done much to mitigate the bitterness of an unpleasant family dispute and to bring about an amicable understanding regarding the subject-matter of the contention.

#### WAR MEDALS AND DECORATIONS.

50. Whilst on the question of effects, it is worthy of note that in the administration of estates of returned soldiers war medals and decorations awarded to them in connection with their services have frequently to be dealt with.

Section 3 of the Military Decorations and Distinctive Badges Act, 1918, provides that, save in pursuance of the written permission of the Minister of Defence or by way of testamentary disposition, it is not lawful to sell or dispose of any military decoration, or to purchase or accept any such decoration. When the Public Trustee is the personal representative of a deceased soldier, scrupulous care is exercised to see that the statutory provision is observed that any decorations pass into the hands of those entitled to hold them. Application is made for the written permission of the Minister of Defence in pursuance of the statute regarding disposal. If there is a will the decorations are given to the person who, in the opinion of the Minister, is named as being entitled to receive them or any articles which will include them, or named as being a general or residuary legatee of the estate. In the case of an intestacy the decorations are given to the next-of-kin in the specified order of relationship defined with regard to those who would naturally have the best claim.

A number of applications for the directions of the Honourable the Minister have been made during the past year.

#### REAL ESTATE.

51. Since the earliest times land has been of vital importance to mankind, for it has always provided for the satisfaction of essential fundamental urgent human wants. As has been said: "All our food, clothing, and shelter come ultimately from the land. Man could exist after a fashion without capital . . . but, he cannot live without land." The progress of civilization and the expansion of industrial and other commercial activities have been responsible for the creation of many new forms of wealth, which have radically changed old ideas surrounding the property which it was desirable to possess and prudent to hold. Formerly the forms of wealth were comparatively few, and, obviously, land was the foremost among these. Though great changes have taken place, and there now exist many

other forms of wealth and safe and desirable modes of investment, land still remains a very important possession. This is especially apparent in New Zealand which is so largely devoted to agricultural and pastoral rather than industrial pursuits. The bulk of the national wealth in New Zealand is in land, and consequently a great number of New-Zealanders are directly interested in this asset. However, even in secondary industry land plays a major part, and wholesale and retail sites in our large cities often acquire very high values. In the roll of assets controlled by the Office a large proportion comprises, directly or indirectly, interests in land. It is obvious, therefore, that problems affecting real estate in New Zealand closely concern the Public Trust Office in the administration of assets, and in its lending and other operations. In my report for the year ended 31st March, 1928, I outlined the work involved in the management of real property, both rural and urban. During the anxieties and uncertainties of the past eight or nine years the management of landed interests, especially in the case of farming properties, has entailed a great deal of responsibility and perplexity, but the Office has seriously addressed itself to solving the problems and overcoming the difficulties, and I am pleased to report that its efforts have met with a satisfactory measure of success.

52. In cases where farming operations are actively carried on on behalf of estates the advice of departmental Farm Inspectors or of outside experts is freely availed of. Effective systems of accounting, recording, and other checks have been put into operation, and every precaution is taken to see that the interests of those for whom the Public Trustee acts are protected.

53. In dealing with land, a matter requiring close attention is the preparation of leases where properties are leased to tenants. This particularly applies to rural lands, and, in addition to the long experience of the Office, those responsible for this portion of the work have the services of the Farm Inspectors to guide them in the problems which confront them. These Inspectors devote the whole of their time to the inspection of estate properties and Common Fund and estate mortgage securities. They are thoroughly familiar with their respective districts and alert to the rapidly changing conditions in their territories. Their reports and observations are therefore of distinct advantage in dealing with matters affecting farming estates.

A matter which in recent years has rightly attracted considerable attention is that of top-dressing and manuring. The virgin fertility of the soil and the favourable nature of the climate combined for many years to blind numbers of the settlers to the necessity for returning to the soil the equivalent of what was being extracted from it year by year. The result was that even the most fertile districts were in danger of becoming impoverished, and the poorer classes of land of being rendered wellnigh useless. The office fully realizes the need for adequate provisions regarding top-dressing and manuring, and the including in leases affecting rural properties of adequate covenants in regard to these matters. In all appropriate cases, before a lease of farm lands is finally arranged, the recommendations of the Farm Inspector or some other qualified person are obtained. Each case receives individual consideration, and suitable provisions are included in the lease.

The Public Trustee is constantly acting in one fiduciary capacity or another. In doing so he cannot be generous at the expense of his beneficiaries, but must ensure that every reasonable precaution which practical skill or experience can devise is taken for their protection. It is therefore right and proper, and in keeping with the duties of a trustee, that leases be drawn in such a way as to ensure the maintaining and improving of the trust properties concerned. Leases arranged by the Office have, on occasions, been criticized on the grounds that their provisions are unduly stringent, but if the foregoing observations are borne in mind it will be readily recognized that the Public Trustee is doing no more than his duty when he takes scrupulous care to protect as far as possible the estates under administration by him.

54. Seeing that the primary products represent such a preponderance in the Dominion exports, a matter which must exercise the minds of all thoughtful people is the valuation of land, and the principles upon which valuations should be determined.

In New Zealand, hitherto, in all taxing arrangements the essential matter has been the distinction between improved and unimproved values respectively. Some light on the precise way in which this distinction is drawn may be gathered from these very interesting remarks :—

The increased value attaching to any piece of land due to the successful working of other lands in the district or to progressive works effected by the State, the general prosperity of the country, high markets for produce, &c., form a portion of the unimproved value under the New Zealand law. Any increased value, however, which is represented by the improvements effected by the individual possessor, either past or present, does not form part of the unimproved value.

Improvements can only be valued *to the extent to which they increase the selling-value of the land*. This fact should not be forgotten; the valuer must therefore value an improvement at the proportionate sum which it represents in the selling-value of the whole property. We sometimes find a large house built on a small area of farming-land. The ordinary farmer who would purchase such a property would not be likely to pay for the house anything approaching its cost—he would only pay the price of a house which suits the requirements of the farm. The selling-value of the house must therefore be valued at what the ordinary purchaser would be likely to give for it, or, in other words, at the sum by which it increases the selling-value of the property. Sometimes an owner will expend his capital and labour injudiciously, and the result will prove detrimental to the land instead of being an improvement. Some lands hold grass better without first being ploughed than they do after the plough. The effect of ploughing in such cases would not be to improve the selling-value. Some improvements, such as ornamental shrubbery, orchards, lawns, vineries, &c., rarely increase the selling-value to the full extent of their cost, and should therefore be valued accordingly . . . No work can be considered an improvement if the benefit is exhausted at the time of valuation . . . The amount at which improvements are to be valued is defined by the Act as the sum by which they increase the selling-value of the land, *provided that the value must not exceed the cost*, although it may be below the cost if their condition warrants it. The cost of an improvement is not necessarily its selling-value, as its suitability and condition must be taken into consideration.

It is the actual improvement which is valued, not the effect of that improvement. For instance, suppose that the expenditure of a small sum in cutting an outlet for water has converted a swamp into a first-class agricultural land: The fact that the swamp was capable of easy drainage would enhance its unimproved value, and the cost only of cutting the drain would be valued as the improvement.

An improvement, to be classed as such, must be made by the owner. Suppose that there are two pieces of land adjacent to one another, and that the cutting of a drain or the erection of a fence upon one of them would enhance the total value of both: If the two pieces are owned by the same person, their unimproved value, both before and after the drain is cut, would appear to be equal to their total value minus the cost of cutting the drain. If, however, they are in different hands, the unimproved value of the piece on which the improvement is not required is enhanced so soon as the improvement on the other piece is carried out. The same point arises in connection with collective improvements. Thus it is further observed in the remarks from the foregoing as extracted: "It has been argued that public works done by small communities, and for which those communities agree to rate themselves, shall be valued as an improvement" for the purpose of the national land-tax. The New Zealand Act, however, does not accept this view.

55. There is wide-spread evidence that in many cases the remuneration received by the farmer does not represent an adequate return for his labour and for the capital he has invested, after he has paid his fixed charges—rent, interest, rates, &c.—and with the recent fall in produce-prices this difficulty has necessarily become considerably accentuated. The downward tendency in prices of products is caused by world economic conditions which, in the long-run, should bring about a more or less stable level. In the final analysis, however, the value of land can be reckoned only in relation to what it will produce, and with the decline in the prices of primary products it is, it seems, inevitable that land-prices in this Dominion must also fall. There can be no doubt that during the war, and for some years after, for many causes the prices of land was "hoisted up to insane figures, and hundreds of sanguine purchasers induced to buy more land than they should and mortgage themselves up to the eyes in the process." Since then there has been the cruel but necessary process of deflating land-values. We see all round cases where the prices paid for farming-lands in the boom years were too high to bear the economic test of a valuation based on the returns from the land concerned. In this, I think, lies the main reason for the inadequate return to the farmer where such is the case. He has paid too much for his land, or the rental for which he is liable has been based on a valuation not in proportion to the true economic value of his holding. It is worthy

of note that the executive of an organization relating to farming interests has recently set up a committee to consider the question of land-valuation in the Dominion, and this committee has now presented a report recommending certain amendments in the present system. It has suggested that in order to prescribe a uniform method of assessing land-values a conference of Government land valuers be summoned by the Valuer-General, and, moreover, that similar conferences be convened in the future at least every five years. The committee recommends that the basis to be adopted in assessing values should be, in the main, the average productive value or carrying-capacity of land under average capable management over a period of ten years. In the report a further important suggestion was made—viz., that the local authorities in various districts be asked to nominate a local resident, preferably a farmer, to act with the Government valuer in the assessment of land-values.

56. In the cities and towns throughout the Dominion the Public Trustee also deals with many properties of all descriptions. At the present time the leasing and sale of residential properties, especially in the larger centres, present many difficulties. After the war there was a shortage of houses, and this, allied with the rapid progress of our cities during the past decade, has been responsible for an extraordinary expansion of building activity both in residential properties and business blocks. The increases for the three years ended 31st March 1929, are of interest, and illustrate these remarks:—

	1927.		1928.		1929.	
	Number.	Value.	Number.	Value.	Number.	Value.
		£		£		£
Residential .. ..	3,064	2,759,236	2,761	2,480,685	3,837	3,311,328
Business .. ..	531	1,822,194	548	2,046,324	735	2,708,969
Other .. ..	670	831,359	678	839,413	997	1,116,551
Total .. ..	4,265	5,412,789	3,987	5,366,422	5,569	7,136,848

Building activity increased during the year ended 31st March, 1930, and whilst it is likely that this high level will continue for the present year, nevertheless there are signs that a decline in construction may be anticipated, especially in the case of residential properties. Already the supply of houses in the larger centres, where a shortage existed for many years, has overtaken the demand, and, indeed, it seems that in some places the supply now exceeds the demand. The sale of house properties is now often more difficult to arrange, and rents show a tendency to decline, while vacant houses are becoming more numerous than for many years past.

In regard to the post-war building activity, comments made in a recent issue of a bulletin published by a large financial institution in the United States of America are of timely interest in this country. This bulletin draws attention to the decline in residential construction in the United States during 1929, and goes on to express the opinion that high money rates are not the first consideration in regulating building projects, but that the financial situation is only one of many factors influencing the trend of construction. The inadequate building for requirements in the United States resulted after the war in a very rapid expansion of residential construction, and, although the incidental costs soared, so strong was the demand that such considerations did not affect the rate of erection. The realization of the shortage led to the inevitable speculative building and over-production. Apart from residences, construction in the United States still remains active, and a fairly even level has continued for the past few years. In the residential construction, however, there has been a decided decline. Conditions in the United States in regard to housing and building activity during recent years have been much the same as ours, and it seems that a similar falling-off in residential construction must be experienced here.

57. In addition to residential properties, the urban lands under the control of the Public Trustee include sites and structures of various descriptions. One

important class of assets is hotels, all over New Zealand. The licensing trade is a special one, and the legislation and law governing it require most careful attention. By virtue of the restriction in the granting of fresh licenses in the Dominion the existing licensed premises are, as a rule, valuable assets. All the hotels under the control of the Public Trustee are either leased on approved leases or run by members of the family in the estate concerned, and the supervision of the lessees and general oversight of these properties require a great deal of time and attention.

58. The Public Trustee has also the management of numerous valuable blocks comprising shops, offices, and warehouses in many of the cities and towns of the Dominion. The valuation and potentiality for production of revenue are difficult and, at times, elusive factors in dealing with urban lands. The following interesting remarks of a well-known economist are to the point :—

What is the cause and the extent of the differential advantage of urban land can best be elucidated by a consideration of the various ways in which the land is used. Most characteristic, and simplest in its manifestations, is the case of sites used for retail trading. Wherever throngs of people habitually pass, retail operations can be conducted with most advantage. Enter a great shop in the heart of a city, and observe what goes on. The selling clerks are continuously busy ; the turnover of capital is large and quick ; the building and all its appliances are in constant effective use. Contrast the scene with the village shop, where the shopkeeper lolls about during the greater part of the day, waiting for a customer ; or (if he be energetic) has ample time for attending to other things also. For each unit of labour and capital applied, the product is vastly greater on the city side. By “product,” in the case of the shop, we mean the contribution to the community’s income of utilities or satisfactions—the completion of what is usually the last stage in the process of getting commodities into consumers’ hands. In everyday speech the same thing is expressed by saying that in the one place much business can be done, and very little in the other.

The precise reasons why some sites are better than others for retail trading are sometimes simple, sometimes obscure. Most simple are accessibility and familiarity. The places where urban transportation-lines converge are the most valuable for retail trade. From such centres the retail streets commonly radiate, those being most advantageous along which the largest number of persons move to and fro in their daily tasks. Anything which causes many persons to betake themselves to a given point—a railway-station, a post-office, a theatre—gives the neighbouring sites an advantage for retail trading. Less simple are the effects of tradition, or of proximity to the dwellings of the well-to-do, or of the initiative of a few skilful dealers, by which one street or region rather than another may come into vogue for shops of the more expensive kind, and its profitableness may for that reason become greater. Display has a great part in attracting customers (it is a cardinal maxim of the retailer that his windows must show his goods) ; hence the southern side of the street, where goods can be put into show-windows with most effect and with least danger of spoiling, often has an advantage over the northern, and commands a higher rent . . .

Sites for wholesale trading command their rentals largely because of their proximity to other sites where the same or similar businesses are carried on. This advantage may seem a trifling one, especially in these days of the telephone. Yet where trading is done on a great scale a few hundred dollars more or less, or even a few thousand, paid for rent do not signify much in the general account, and the facilitation of larger dealings leads to the ready payment of a high premium for the convenient sites. Here every sort of negotiator can run in promptly ; banks, brokers, shipping agents, insurance companies, are close by. Wholesale dealers in the same trade are near each other ; in a great city there is the metal district, the dry-goods district, the boot and shoe district, the shipping district, and so on. All together cluster about the financial centre, which in turn gets its advantage from being in close touch with any and every kind of business. The most various sorts of persons, who need to be where they can easily get at their customers and where their customers can easily get at them, bid for premises near the heart of things, such as lawyers, brokers, and middlemen of all kinds, the managers and representatives of manufacturing establishments. Hence the office building, developed to perfection in American cities. The largest urban rents seem to be secured, at least in American cities, on sites used for offices, for financial enterprises, and for the great retail shops. They sometimes reach an extraordinary range.

Manufacturing sites sometimes command their price because of intrinsic advantages. They may be near water-power, or to a deep-water harbour, or to cheap fuel and materials. Facilities for transportation by railway tell no less than water facilities. . . .

The precise point at which a city’s business operations will concentrate, and at which urban rents will be highest, is often determined by no natural or inherent causes. The site of a great city is, indeed, usually fixed by natural advantages, such as a superb harbour, or the confluence of rivers in the neighbourhood of great coal-supplies, or access to inland water routes. But within the city there is usually no reason why one small area should be preferred to the others as superior for business. It is the gregariousness of industry that gives business sites their value, just as the gregariousness of men has the same effect on sites for dwellings. Some one centre will be resorted to by all, and will be prized by all ; but the causes which fixed the centre at Threadneedle Street or Wall Street are usually historical and complex, and sometimes whimsical,

The value of sites for dwellings is explained by the same principle, with similar complexities and similar apparent anomalies. Sometimes such sites have intrinsic advantages—broad and sunny streets, frontage on parks and open spaces, convenience of access. But often the advantage is purely factitious. Nearness to one's kind is in many cases alone sufficient to explain the demand for some spots. Crowded, noisy, and unhealthful city streets attract the working classes more than quiet lanes in the country. At the other end of the social scale, among the well-to-do, and most of all among the very rich, snobbish differences tell enormously. Certain streets are resorted to by those who have social distinction. Thither flock all who yearn for such distinction—a great and growing multitude—and sites believed to be proper for the select are paid for at rentals limited only by their incomes. The very cracks and crannies of fashionable districts, narrow side streets and dark back rooms, when touched by this potent charm, command high rentals, notwithstanding their intrinsic unattractiveness.

59. During the past few years a great deal of property development and building activity have been pursued in the principal centres, as the outcome of the growth of population and the expansion of commerce; for example, a particularly marked development has taken place in Wellington in recent times. In some of our principal cities street-widening and town-planning have had a notable effect. Often the contour of the neighbourhood makes for a dearth of suitable business sites within a convenient radius, and the result is that land-values in the favoured localities have been enormously enhanced within the last decade or two. We also find that the building of new premises and the renovation of old ones have proceeded apace. In some of the towns many of the old landmarks, in the form of antiquated and inconvenient buildings, have disappeared and been replaced by many-storied and commodious edifices, offering to the occupiers an additional measure of the amenities and conveniences of the present advanced age.

Once these forces of development and expansion are set free, they become almost irresistible for a time, until finally checked by the operation of opposing economic forces, when a halt has to be called. Whilst the activity proceeds the owners of old buildings are obliged to join in the general development schemes. Such persons must either extensively renovate and remodel their existing buildings, where the condition of them warrants and permits of such a course being carried out, or, failing that, demolish them and erect new ones in their place. Premises beyond the immediate needs of the owner in his own particular business must be let or otherwise utilized in order to provide a return on the capital invested in them. Here, as elsewhere, after making due allowance for the time required for the development of the full results of changed conditions, it will be seen that the principles of supply and demand operate, and, once the point of satiety in accommodation is passed, the law of diminishing returns makes its operation distinctly felt. "Even in the case of urban lands the same law (*i.e.*, diminishing returns) applies. The fertility—that is, the productive service—of certain lands consists in yielding support to buildings. It may, indeed, be profitable to replace a tent by a wooden shanty, a shanty by a stone building, and perhaps even a stone building by a steel skyscraper. Obviously, however, at a given moment there will be a point beyond which a more expensive structure will not yield proportionate returns." This is exactly the position in some of our larger cities to-day. As a result of the extensive building activities during the past few years, to which I have already made mention, there is a decided over-supply of accommodation for shops, offices, and warehouses, and in sympathy with this a tendency for rents to fall. An extract from a recent New Zealand report on the subject bears this out:—

Rental values of suburban properties that soared during the house-shortage have now receded to a more normal standard and show a decline of approximately 15 per cent. . . . City rents for the larger type of residence suitable for subletting purposes are stated to have remained firm, while shop rentals both in the city and suburbs are showing an easier tendency. A good deal of the suburban development which has taken place has been assisted by Government finance. In the city several imposing buildings have been completed during the year, and foundations for additional ones are well under way. The demand for office and warehouse space has been well supplied, probably a little in excess of the demand; but there is no doubt that this will be absorbed within a reasonable space of time. Many new business premises have been completed, and a number of the old shops modernized; most of them are occupied by tenants, in some cases at a slight reduction on past rentals.

This diminution in the rentals which can be obtained is particularly unfortunate for owners at a time when the burdens of taxation, &c., have been materially increased.

60. Fortunately, when this development movement first commenced the Office appreciated the significance of the trend of events, and set to work to ensure that, so far as the terms of the particular trust or will or the law would permit, estate assets were kept abreast of modern requirements. In order to modernize certain properties, alterations and additions were judiciously put in hand where the circumstances required or justified them, and so it has been possible for leases of altered premises to be arranged at good rentals. In this way the necessity for a heavy capital outlay such as would have been involved in the erection of modern buildings has in a number of cases been obviated, whilst the maximum return from the properties affected has been secured. Furthermore, what is important at the present juncture, the capital invested in such properties is comparatively moderate, so that, even if the rentals do fall to some extent for a time, the yield during such a period will be commensurate with the value involved. Before any outlay for extensive alterations has been authorized the whole position has been carefully surveyed, the surrounding factors and tendencies analysed, and expenditure sanctioned covering only improvements which were essential and warranted in maintaining or in enhancing the letting-value of the premises concerned. For many reasons it is apparent that the time has arrived to call a halt in extensive building and land-development schemes in some of the larger cities, especially in connection with shop, office, factory, and warehouse properties, and to exercise a conservative policy as to outlay in this respect until the existing situation has had time to recover and correct itself.

61. From what I have already set out in connection with the causes and extent of the differential advantage of urban lands, it will be realized that, with rapid suburban expansion and the opening-up of new routes in the principal centres, there are so many dominating factors affecting land-values, and the uses to which they are put, that a change in any one of them may enormously affect the others. It is common knowledge how vitally such values are influenced by the direction taken by a much-used road, rail, tram, or bus route, or the location of a terminal or an important stopping-place by the way. The deviation of an existing route or the opening of an entirely new one and the consequential diversion of traffic may, in a short space of time, depreciate the value of one locality and enhance that of another. Likewise, town-planning and other city improvement schemes, as well as numerous kindred movements, must not be overlooked in this question of land-values and the revenue to be derived from the properties affected. Conceivably, then, at any rate in the larger centres, the value of many an urban block may within the next few years materially alter in response to the happening of one or more events of this nature. With the possibility of these fluctuations before us, it would be unwise to attempt to predict reliably or to gauge with certainty what the result will be.

62. The Public Trustee also administers a number of blocks of land valuable for their mineral or forest products. These holdings present their own peculiar problems, and all due precaution is taken to administer them to the best advantage.

#### INTESTATE ESTATES.

63. Property may be divided into two classes—inheritable and uninheritable. Rights in that which is inheritable survive the owner, but in the uninheritable they die with him. The beneficiaries who are entitled to the residue, after the satisfaction of the creditors, are of two classes—firstly, those nominated by the last will of the deceased, and, secondly, those appointed by the law in default of any such nomination. A will is regarded as the natural and normal mode of disposing of property at death, for it has the effect of enabling a person to give definite expression to his intentions as regards the post-mortem distribution of his property. Consequently the laws relating to the devolution of property on intestacy have been said to be “an expedient set of rules framed to supply a remedy for neglect on the part of deceased persons” who have not left any testamentary document at all or who, leaving such a document, have not framed it so as adequately to dispose of the whole estate.



64. In the first year of its creation the Public Trust Office was empowered to administer intestate estates. Prior to that time, under the then existing law of the country, if a man died without a will his next-of-kin or, in default of his next-of-kin, some creditor was entitled to administer the estate. It frequently happened that men died without leaving any person in a position to assume the administration of their estates, in which case it was necessary for some official to step in and administer. The old law had been that the Registrars of the Supreme Court of the several judicial districts were authorized to take out administration; but it was found that these officers were not always the most suitable persons to carry out the duties of administrators, which were foreign to the routine of their ordinary work. Accordingly an Intestate Estates Act was passed in 1865, providing for the appointment for each province of a Curator of Intestate Estates, to whom might be granted administration of the estates of persons who died intestate. The system proved to be loose and unsatisfactory and called for an improvement. Within the limits of their respective provinces the Curators were independent of any common authority. The only control and supervision over their administration was a provision that their accounts were to be submitted to a Judge of the Supreme Court for a declaration that they were correct. After this had been signed by a Judge the accounts were practically passed and no further inquiry could be instituted. The Office commenced to function in 1873, and in that year was passed the Public Trust Office Act Amendment Act, repealing the acts dealing with the Curators, and providing for the administration of intestate estates by the Public Trustee in lieu of these officials.

65. The experience of the Office during the past few years is that there is a tendency for the number of intestate estates to decline. During the past year 597 such estates, of a value of £407,484, were accepted. This represents a very small increase in number and a diminution of approximately £53,000 in the value as compared with the preceding year. The falling-off in intestate estates is significant of the fact that with the spread of enlightenment and knowledge increasing numbers of persons are taking the precaution of making wills to ensure that their estates shall be disposed of in accordance with their desires. The increase in the number and value of testate estates directly supports this view, and I feel, therefore, that by reason of the more extensive completion of wills there will be fewer intestate estates reported in the future. From experience gained in handling large numbers of intestate estates over a period of years it is evident that nowadays people are far less inclined than formerly to rely on the stereotyped statutes and principles of distribution, which must necessarily be rigid in their operation, and do not ensure that those with the strongest moral claims will always receive from the estate that portion to which they are justly entitled: "The law is not sentimental; the statutes of distribution in intestacy are inexorable in their operation and sometimes operate harshly." "In intestate succession the law is chiefly guided by the presumed desires of the dead man, and confers the estate upon his relatives in order of proximity." In default of any known relatives the property of an intestate is claimed by the State itself and goes as *bona vacantia* to the Crown.

66. To enable an administrator to make the proper division he must be satisfied as a reasonably prudent man with the evidence tendered as to the identity of the claimants, their degree of relationship, and the non-existence of persons having prior legal claims. Normally it is easy to ascertain who are the next-of-kin when the nearest relatives are a wife and child, or parents, or brothers and sisters, but where the next-of-kin have to be sought further afield in the realms of relationship the task becomes more difficult. Frequently no direct evidence is procurable, and protracted investigation and inquiry, and sometimes considerable delay, are involved. In the transaction of its extensive administration business for well over half a century the office has encountered almost every conceivable problem and point arising out of the distribution of intestate estates and the establishment of next-of-kin. With its experience and widespread organization the Department provides effective and convenient machinery for the carrying-out of these investigations, and the conduct of what often proves to be lengthy and voluminous correspondence. Very great pains are taken by the Public Trustee to trace the next-of-kin and to distribute the balances in his hands amongst those entitled,



67. As I have already pointed out in this report and on previous occasions, a number of the intestate estates are of small value, and often present complications which render their administration difficult out of proportion to the value involved. To minimize the cost of administration, and to save expense to those to whom frequently every penny is of moment, a useful and necessary power is vested in the Public Trustee to file elections to administer in estates not exceeding £400 in value, in lieu of having to go through the formalities and the consequent expense of obtaining letters of administration. Such an election has all the force and effect of an ordinary grant of administration, and the only expense involved is the small fee of 3s. The same beneficial power now applies to wills estates up to £400 in value, so that in these cases an election to administer with will annexed may be similarly filed, instead of applying for an order to administer *cum testamento annexo* as would otherwise be required.

It is worthy of note that the experience in regard to the disproportionate cost of handling small estates is by no means limited to New Zealand. The Committee of Inquiry which investigated the work of the English Public Trustee's Office in 1919 reported that the administration of these estates "could not be rendered remunerative except by the imposition of fees which would in effect be prohibitive," and suggested that power be given to the Public Trustee to have direct access to the Court without the intervention of counsel and solicitors in cases where the value of the estate was under £1,000. The same problem from time to time exercises the minds of those who consider questions pertaining to the administration of estates in the United States of America. I have noticed recently reference to the prohibitive cost involved in handling in that country estates under £1,000 in value. It is significant to record that by means of a questionnaire directed some years ago to a group of representative American trust concerns it was elicited that, though the acceptance of estates of small size was agreed to as a matter of professional duty, less than 30 per cent. of them desired or sought estates of under £1,000 in value, and that in some instances the smallest amount invited was £10,000. In commenting upon the need for devising some form of administration agency adapted to the smaller estates, and affording the advantages of efficient service to people who stand in most need of such protection, an American critic stated that "in England, New Zealand, and other countries the problem of dealing with small estates has been in a large measure solved by the establishment of Public Trustee Offices under Government tutelage and guarantee."

68. Interesting and intricate points of law arise in connection with the establishment of the next-of-kin of intestate estates. To assist in proving or disproving claims to participate the law takes cognizance of certain presumptions, and in some instances, where these have been found inadequate or liable to create undue difficulty, suitable amending or supplementary legislation has been passed in recent years. For example, this has been the case in regard to the doctrine of *co-morientes*—i.e., where two or more persons perish together, as in shipwreck or other accident. In effect, the presumption of law was that where two or more persons died as the result of a common calamity the deaths occurred simultaneously, unless there was some evidence to the contrary. Nowadays, with the radical change in the means of locomotion by automobile, aerial transport, &c., there has been an enormous increase in the accidents in which two or more persons lose their lives under such circumstances that it is impossible to determine the order of their survivorship. Obviously, for the purpose of deciding the succession to and the rights of property the question is often one of vital importance, and, unfortunately, it is one that is constantly arising through transport accidents, which feature so largely in civilized countries in modern times. To overcome the difficulty it is provided by section 6 of the Property Law Amendment Act, 1927, that in all cases where, after the passing of that Act, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the Court), for all purposes affecting the title to property, be presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder.

69. Reference may also be made to those cases where a beneficiary has not been heard of for a number of years, and it is not known whether he is alive or

dead. In these instances the remaining beneficiaries often press for the distribution of the share of the missing relative, and urge the widespread notion that a person who has not been heard of for seven years is necessarily regarded by the law as being dead. The position has been well put by a learned writer on the subject :—

With regard to human life, there is no presumption of law by which the fact that a particular person was alive on a given date can be established, it being in every case a question of fact for the jury or Judge sitting as such.

As to death, on the other hand, there exists an important presumption, for if it is proved that for a period of seven years no news of a person has been received by those who would naturally hear of him if he were alive, and that such inquiries and searches as the circumstances naturally suggest have been made, there arises a legal presumption that he is dead.

There is no legal presumption, however, either that he was alive up to the end of that period or that he died at any particular point during the seven years.

If it be necessary to prove that a person who, after the lapse of seven years, is presumed to be dead, died at any particular date within that period, this must be proved as a fact by evidence raising that inference.

On the other hand, an administrator cannot “sit idly by and keep trust funds for long periods uninvested, adopting the passive or inactive attitude that the presumption of law does not suffice, and refusing to act until conclusive evidence is supplied.” In invoking the assistance of the Court administrators proceed by way of originating summons, thus affording the Court the opportunity of issuing directions designed to safeguard the interests of the missing beneficiary whose rights are in question.

Rather than that these shares should remain unclaimed, and to assist people of small means, a special procedure has been designed to enable the Public Trustee to distribute an intestate estate where he is unable to obtain satisfactory and conclusive evidence of the existence or whereabouts of some one or more of the next-of-kin. Application is made by the Public Trustee, on petition, to the Supreme Court for directions. The Court thereupon orders advertisements to be issued calling upon the missing beneficiaries to send in their claims within a time specified. If no claims are received, or no person is able satisfactorily to establish his claim, the Judge, on further application, authorizes the distribution of the estate, disregarding the claims of the missing beneficiaries. It is to be noted, however, that the Act does not in any way debar such beneficiaries from following the assets to which they are entitled should such beneficiaries subsequently be traced.

#### MENTAL-PATIENT ESTATES.

70. Most jurisdictions impose legal restrictions on the capacity of mentally defective persons to deal with their property, and, in the interests of such persons, provide for their care and protection, and for the proper control of their estates and interests. There is a good deal of misunderstanding on the part of uninformed persons as to the aim of these provisions. Upon consideration, however, it will be admitted that there are in the community certain classes of persons who require the special protection of the law—*e.g.*, infants are uniformly recognized as a class which the law singles out for special protection. The power of an infant to exercise his will remains latent by nature for some considerable time after birth, and the law takes care to ensure that such power to exercise his will for legal purposes remains latent or limited, or is exercised only by proxy, until the infant's personality has attained sufficient maturity. At what age a human being is recognized as normally possessing sufficient maturity to act independently of the will of another is a matter on which the laws of all countries are not in accord. In England and those countries whose legal systems are based on the law of England the age is twenty-one; in some countries it is as low as eighteen, in others as high as twenty-five, and it may be fixed at different periods for different purposes.

71. A little reflection will show that it is very necessary and desirable to furnish competent control for the affairs of those who by reason of their helpless mental condition are unable to act for themselves. In New Zealand this is provided for by the Mental Defectives Act, 1911, and the amendments thereof. In my last report I referred to the provisions of this Act governing the administration of mental-patient estates, and showed the useful and necessary service rendered by the Public

Trust Office in the conduct of this work. Except where the Court has appointed otherwise, the Public Trustee has the custody and control of the estates of all mentally defective persons within the meaning of the Act, and may also be appointed by the Court committee of any such estate. Moreover, the Public Trustee exercises certain supervision over the accounts and administration of private committees. During last year the estates of 434 mental patients, having assets valued at £447,014, were reported for administration, making a total at the 31st March, 1930, of 1,652 such estates, of an aggregate value of £1,981,987, under the control of the Public Trustee.

When the Public Trustee is acting as statutory committee of a patient's estate his powers and duties apply merely to that portion of it which is situated in New Zealand. If the patient possesses estate elsewhere the appointment of a committee or administrator lies with the competent jurisdiction in the *situs* of the foreign assets. It appears that unless the Courts of the territory where the overseas estate is situated authorizes such a course, the administrator or committee could probably not obtain possession of it. Nevertheless, it is the practice of the Public Trustee to endeavour to arrange for adequate steps to be taken to protect the foreign interests of mental patients and for any requisite administration action to be completed in respect of such assets.

72. This leads to the question of the advisability of providing, within the British Empire, a means of facilitating the administration of mental patients' affairs. Many persons resident in the United Kingdom or in the overseas dominions own property situated in various parts of the Empire. With expanding immigration and travel, increasing population in the dominions, and the extending of the range of property interests nowadays, it is to be expected that this spread of ownership of property throughout the Empire will increase in the future. When through the mental incapacity of a person owning property in any part of the Empire it becomes necessary or advisable for the committee or administrator of his estate to deal with or to protect such property, points arise which it is considered could be regulated by reciprocal legislative provisions, or working agreements, or other bilateral arrangements within the Empire. If this could be done the administration would be facilitated, with benefit to the incapacitated owners and their dependants.

73. The disability of a mental patient does not diminish his needs; in fact, in some respects, it increases them, and unintended hardship is often inflicted on him through the inadequacy of the legal provision whereby he may, through his curator, committee, or administrator, obtain the control of his whole estate with a minimum of expense and delay. As is well known, jurisdiction in lunacy is altogether independent of the question of domicile or nationality, and arises through the mere presence or temporary residence within the dominions of the Crown of the person whose mental disability is asserted. Thus the Court in lunacy has jurisdiction to order an inquiry into the state of mind of a foreigner domiciled abroad but temporarily resident in England or New Zealand, and, as a necessary consequence of such inquiry, to undertake the care of his person and property in England or New Zealand. Both the domicile of the person and transient nature of his presence in the part of the dominions of the Crown where he is detained may be immaterial to the exercise of the discretion of the Court in its lunacy jurisdiction. In order to enable curators, committees, or administrators of mental patients in one part of the Empire to receive and deal with assets belonging to such person situated in another part of the Empire, and to make for the mutual recognition of orders in lunacy made by Courts in different portions of the British Dominions, the means of providing useful reciprocity has been established in New Zealand by sections 10-13 of the Mental Defectives Amendment Act, 1921-22. It is not necessary to set out at length here the precise nature of this legislation. It is sufficient to say that the carrying-out of the provisions with respect to any part of the Empire other than New Zealand is dependent upon similar reciprocal legislation being in force in such other part of His Majesty's Dominions. There are two States of the Empire outside New Zealand having legislation substantially similar to the foregoing—namely, Victoria, where the legislation is contained in Divisions 2 and 3 of Part VIII of the Lunacy Act, 1915, and South Australia, where the relative provisions are contained in the Mental Defectives Amendment Act, 1914. It is

suggested that these provisions might well be adopted by other parts of the Empire either in whole or in part, with any modifications which in any particular State or Dominion might be desirable or expedient.

74. A number of the mental-patient estates under administration have overseas assets, and during the year it was necessary in several instances to take appropriate steps to protect the interests of the incapacitated owners.

75. It should not be overlooked that in connection with the administration of these estates the provision for advisory trustees also applies. Section 10 of the Public Trust Office Amendment Act, 1913, extends the principle of advisory trustees to mental-patient estates, making it possible in suitable cases for a relative or some other person to be appointed in an advisory capacity.

76. A point of interest arose recently in connection with the legislation dealing with the Cook Islands, in the case of a European who had been committed from that territory to a mental hospital in New Zealand. As I have pointed out earlier in this report, Part VIII of the Mental Defectives Act, 1911, provides for the administration of a mental patient's estate either by a committee appointed by the Court (who can, of course, be the Public Trustee), or where no such committee is appointed, then by the Public Trustee. It is true that section 587 of the Cook Islands Act, 1915, provides that Part VIII of the Mental Defectives Act shall in New Zealand extend and apply to property situated in the Cook Islands belonging to a European of unsound mind, but it specifically excepts from the operation of the section interests in Native land. Thus it seems that there is no provision for the protection of a mental patient's interest in Native leases in the Cook Islands, and that it can only be left to the mercy of the lessor or the creditors to take such action as they think fit. The attention of the proper authorities has been drawn to this matter with a view to any requisite action being taken by way of supplementary legislation or otherwise.

77. The administration of mental defectives' estates entails a great deal of work and responsibility. When a person is committed to a mental hospital it devolves upon the Public Trustee to make inquiries as to his assets in order that appropriate action may be taken to protect his interests. In numbers of cases a great deal of inquiry and investigation has to be made, and steps have to be taken in regard to personal effects and assets of a nature for which little or no remuneration can be obtained. The service performed is necessary and useful, and it should be recognized that if it were not undertaken by the Public Trustee, then it would be necessary for the Government to set up some other authority for its conduct.

78. For no justifiable cause, and merely by reason of the nature of their mental disability, a number of mental patients cause endless trouble and stir up prolonged agitation in connection with the administration of their estates. Some harbour imaginary grievances, and others simply maintain a stout opposition to any interference or outside control of their affairs. All these features render the work of administration more trying and difficult. The powers, duties, and functions of the Public Trustee in regard to the estate of a patient cease when the patient is discharged in accordance with the Mental Defectives Act, 1911, and when it appears from the notice of discharge that he is competent to manage his own affairs. When a patient is completely recovered the Mental Hospital authorities issue a "discharged recovered" certificate, upon receipt of which the Public Trustee hands over to the discharged patient the control of his estate as a matter of course.

79. There are, however, a number of persons who have been inmates of mental hospitals and, although they will never completely recover, have recovered to such an extent as to justify their liberation from the institutions. In cases like this the Mental Hospital authorities would not be justified in issuing a "discharged recovered" certificate. At the same time, the mental condition of some of these persons may be such that they are capable of managing themselves and their own affairs with ordinary prudence, and that their mental disability will not put them at a disadvantage in dealing with their normal fellows.

By the Mental Defectives Amendment Act, 1914, it is provided that in the case of any person discharged or deemed to have been discharged under the Act, if the Public Trustee, upon such evidence as he may require, is satisfied that such

a person is able to manage his own affairs, control of his estate may be handed over to him. Thus, the question for the Public Trustee to determine is whether such persons should be allowed to manage their own estates. This is an important discretionary power, and it has to be carefully exercised in order that the persons themselves and those dependent upon them are properly protected. At times the relatives and well-intentioned persons acting for these people fail to realize that when he feels called upon to refuse to relinquish the control of the estate the Public Trustee is merely faithfully fulfilling his duty and doing his best to protect the interests of the person concerned. A number of cases under this provision came up for consideration during the year, some of them containing special features and presenting considerable difficulty.

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

80. To the classes of persons who require protection, either in their own interests or in the interests of society, the law of New Zealand has added another class. In accordance with the title of the statute which is the source of this protection these persons are usually described as "protected" or "aged and infirm" persons, though the Act can be applied to persons who are not necessarily aged or infirm in the strict sense of the term. This statute was first enacted in 1912. The status acquired by a person to whom it is applied is not universally recognized in the legal systems of the Great Powers. It is generally conceded that there are persons who are not minors, insane, or mentally defective in the usual sense of the term, but who are according to any normal, average, or reasonable standard incompetent to manage their own property or their affairs. In obedience to conscientious considerations of social policy, protection has been granted in this Dominion in these cases. Naturally, the same considerations do not exist in every country, and the problem has not been solved in every country or by precisely the same means. The status created by the Aged and Infirm Persons Protection Act, 1912, is unknown to the law of England, but it reminds one of that of the *prodigi interditi* of the Roman law, who were interdicted from squandering their paternal property, the administration of which was entrusted to a curator. The status is analagous in part to that created by the law of France. By the Code Napoléon a French subject of extravagant habits may be adjudged to be a prodigal and be restrained from dealing with his movable property without the consent of a legal adviser. The Public Curator Act, 1915, in Queensland has a more or less similar effect, and a few of the States of the United States of America have engrafted on to their legal systems legislation somewhat on these lines. The Office experience has shown that the Aged and Infirm Persons Protection Act is an advanced piece of legislation, and if wisely and sympathetically administered it proves a beneficent one in practice, and has in every way fully justified its existence. As its operation is not as well known as might be, I feel it proper to refer to it at some length here.

81. The Act has two main objects in view. One of these is to provide an alternative means to that provided by the lunacy laws for protecting the property of mentally defective persons whose condition is such that it is not necessary to detain them in mental institutions or in the custody of other lawful authority. It will be seen from the Act that it is expressly provided therein that a protection order may be made although it may appear to the Court that the person protected is a mental defective or that the estate is one which might be administered under the law governing mental defectives.

82. If a mentally defective person is detained in a mental hospital or otherwise in pursuance of any order made by lawful authority, in either of which cases he is technically described as a mental patient, an administrator, in the person of the Public Trustee, becomes committee by operation of law, unless a committee is appointed by the Court. All mentally defective persons, however, are not detained in mental hospitals or under other lawful authority. In many cases the circumstances—*e.g.*, the nature and effect of the disease, the habits of the victim, his associations, surroundings, &c.—render it unnecessary to deprive him of his freedom. It will be at once recognized that in extreme old age the vital powers frequently become so enfeebled that a person in this condition is not sufficiently normal, in the accepted signification of that term, to care in a

proper manner for his property and safeguard his interests. Such a person requires the protection of the law as much as a lunatic or an infant. He is, indeed, in what may be termed his second childhood, as much susceptible of subjection to fraud or folly as a minor. On consideration it will be seen that the legal machinery to make effective the protection which the law relating to mentally defective persons gives does not work until it is set in motion. It is cold comfort for the dutiful sons and daughters of an aged parent whose powers have in the decline of his life become so weakened or impaired that he has no true appreciation of the nature and value of his property that they can protect his interests by having him officially declared insane or a mental defective. To provide against a painful situation like this is one of the main objects of the Act.

83. The second object is to protect the interests of certain other classes of persons who are, according to any normal standard, incompetent to manage their property, whether the cause of their incompetence be immaturity of years, mental deficiency, or certain other defined causes—namely, (1) age, (2) disease, (3) illness, (4) physical infirmity, (5) the taking or using in excess of alcoholic liquors, or intoxicating, stimulating, narcotic, or sedative drugs. The classes of persons for whom the act is specially suitable may be divided as follows: (a) Mentally defective persons whose circumstances are such that it is not necessary or desirable in their own interests or that of society to have them declared insane or detained in a mental hospital or under other lawful authority. (b) Old people whose senility is such that their powers may be enfeebled to such an extent as to make it in their interests that a protection order be granted, but not to an extent sufficient to secure a verdict of mental deficiency. Of course, the line at which it is possible to confirm that a person is mentally defective is not always easy to draw: the weakness which does not amount to unsoundness shades off into that which does. (c) The chronic drunkards or drug-addicts. As an eminent writer on the subject says, “Psychologically the drunkard is in much the same position as the mental defective, but, while the latter has been the subject of protection from the earliest time, the drunkard has had little attention and still less sympathy from the law, probably because intoxication is usually due to a man’s own fault, whereas lunacy is his misfortune.” The effects of habitual indulgence in intoxicating liquor and drugs are such that a person addicted to this vice may by neglect of business and wanton expenditure reduce himself and his dependents to penury and may eventually become a burden on the community. Addiction to drink or drugs is not of itself sufficient to obtain such protection, but where it is accompanied by one or other of the disabilities mentioned in the Aged and Infirm Persons Protection Act, 1912, such as inability to manage property, it may be not only in the interests of the victim, but of those dependent upon him and of society generally, that a protection order should be made. Once such an order is made, the protected person is incapable, without the further leave of the Court, of making any transfer, lease, mortgage, or other disposition of such part of his estate as is the subject-matter of the protection order. The Court can direct that any testamentary disposition made by the protected person after the making of the protection order shall be made only with such precautions as the Court thinks fit; otherwise such testamentary direction is ineffectual. In making the protection order the Court also appoints a manager, who thereupon becomes authorized, unless the Court in any particular case orders otherwise, to exercise the following powers:—

- (a) To take possession of the protected estate, and to recover possession thereof from any person holding the same:
- (b) To repair and insure against fire or accident any part of the estate:
- (c) To demand, recover, and receive moneys and personal effects payable to or belonging to the protected person:
- (d) To apply any moneys (whether arising from real or personal property, and whether income or capital) for the maintenance of the protected person, and the wife or husband, and the children of the protected person, and in payment of the debts and liabilities of the protected person:
- (e) To carry on any trade or business theretofore carried on by the protected person, and to carry on the business of any partnership in which the protected person may be a partner.

If it is necessary in the interests of the protected person to sell, mortgage, or otherwise dispose of his estate or any part thereof, or to continue any act of benevolence which he was accustomed to make in favour of a person wholly or partially dependent upon him, or to exercise any other power for the protection of the estate, the manager can make application to the Court, which has jurisdiction to make an order.

84. The principles involved in the administration of the estate of a protected person are akin to those pertinent to the control and management of the estates of mental defectives. The constitution and organization of the Public Trust Office is eminently suited for that class of work, and by reason of these special advantages the Public Trustee is appointed manager in a large number of cases. If necessary, an advisory manager can be appointed to co-operate with the Public Trustee, who can thus have associated with him in an advisory capacity a relative, or business associate, or solicitor, or intimate friend whose judgment is valued by the protected person.

85. The Office has under administration a number of these estates, and during the past year several new appointments of the Public Trustee as manager were made by the Court. In some instances where the Public Trustee has acted as manager under the Act for a number of years, the relatives of the protected person have been so satisfied with the manner in which affairs have been handled that on the death of the owner they have entrusted the administration of the deceased's estate to the Office.

#### CONVICTS.

86. An additional class of persons who are generally made incapable of exercising their rights of citizenship, including the rights of dealing with their property, are convicts. Nevertheless, notwithstanding his conviction, a convict remains the owner of his property, and has duties and obligations towards his family and others which he will not be able to discharge. The law appoints an administrator to protect such property and to carry out the convict's obligations is so far as the property permits. Accordingly, under Part III of the Prisons Act, 1908, the custody and administration of convicts' estates are entrusted to such persons as the Governor-General shall under his hand appoint. In practice all such estates are administered by the Public Trustee in pursuance of a general appointment made by the Governor-General. An exception is made in the case of Natives within the meaning of the Native Land Act, 1909, whose estates are administered by the Native Trustee created by the Native Trustee Act, 1920.

I have already pointed out that by reason of certain defects in the existing legislation which have during the past two or three years become apparent difficulties are encountered in some cases in the administration of convicts' estates. There is uncertainty whether or not those persons who are sentenced on a number of charges to more than one term of imprisonment, each being less than three years but in the aggregate being more than three years, can be defined as "convicts" for the purpose of that portion of the Act dealing with the administration of convicts' estates. Representations in regard to this matter have been made to the appropriate authorities, and the question of amending legislation is now under consideration. Beyond this there is nothing in connection with the administration of convicts' estates calling for special mention on this occasion.

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

87. A prominent feature of modern social legislation in many civilized countries is that dealing with workers' compensation. In New Zealand the first Workers' Compensation Act was placed upon the statute-book in 1900, and marked a revolutionary departure in the law of master and servant in this country, inasmuch as it proceeded upon the arbitrary rule that if any person coming within the definition of a "worker" sustained personal injury by accident arising out of and in the course of his employment compensation should be payable to him, or, in the event of his death, to those who were dependent upon his earnings. The New Zealand Act was adapted from a corresponding statute passed in England in 1897. It is stated that the principle of workers' compensation was derived from a



German scheme of providing insurance for workmen by their employers against accidents happening to workers in the course of their employment. The original New Zealand Act has been extended by subsequent legislation, and is in marked contrast to the common law, which never imposes liability upon one person to make compensation to another for personal injury suffered by the latter except in cases where the injury was due to some breach of duty on the part of the person occasioning it or to his agents or servants.

88. Claims under the Workers' Compensation Act constitute an important part of the Office work. The Public Trustee's interest in these matters may arise under any of 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 custodian of compensation moneys payable in respect of the death of a worker :
- (5) 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 :
- (6) 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.

The claims with which the Public Trustee is concerned are mainly those arising under (3) and (4) above—that is, those arising out of the death of a worker, who is defined by the Act as any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether remunerated by wages, salary, or otherwise ; but does not include any person who is employed otherwise than by way of manual labour and whose remuneration exceeds £400 a year.

89. The Public Trustee is, unless the Court of Arbitration orders otherwise, the custodian of compensation moneys payable in regard to the deaths of deceased workers. These moneys are held on behalf of the dependents entitled thereto and are applied as ordered by the Court. The function of the Public Trustee as custodian of compensation moneys is quite distinct from that of the executor or administrator of the estate of a deceased worker, and even when the Public Trustee is himself executor or administrator of the estate, as frequently happens, he receives the compensation moneys in his capacity of statutory custodian.

90. In last year's report I dealt with the machinery provisions of the Act, covering the right to take proceedings for the recovery of compensation on the death of a worker, and of the apportionment of the moneys received by way of compensation. I wish this year to refer to the volume and nature of the work devolving upon the Office under these headings.

All compensation cases come before the Public Trustee, and in numerous instances the solicitors to the Office are called upon to conduct the claim for compensation. The circumstances of the cases dealt with cover a wide and varying range, and the knowledge acquired in regard to workers' compensation in New Zealand is thus very comprehensive. In the application for apportionment it is the Public Trustee's duty to report to the Court upon the best and most equitable method of apportioning the moneys, having regard to the circumstances of the various dependants. This must be done in all cases, and necessitates careful inquiries in order that proper information may be made available to the Court. During the period under review the Public Trustee made forty-seven applications to the Arbitration Court for apportionment orders, and reports were filed in a number of cases in which applications were made by private solicitors acting for the dependants.

Very frequently the widow and children dependent upon the deceased worker are possessed of no means whatever beyond the compensation money, and, in any case, dependants are never in prosperous circumstances. For these reasons it has always been the endeavour of the Office to perform the necessary work at a minimum



cost. Earlier in this report, in dealing with concessions granted to clients in the way of reduced charges, I pointed out that during the year it has been found possible to make a further reduction in regard to compensation moneys. This fee is now 1 per cent. on the moneys collected, and is charged once only. The services rendered comprise, in the ordinary course, conduct of the claim for compensation, involving at times protracted negotiations and legal argument; application to the Court for order of apportionment; payment of maintenance allowances, frequently over long periods; and sometimes the purchase of a home on behalf of the widow and children. All these services, together with the preparation of any necessary documents, are covered by the modest charge of 1 per cent. on the moneys received. Furthermore, interest is allowed by the Public Trustee on compensation moneys from the date of receipt and continues uninterruptedly while any portion of them is held by him. The present rate is  $5\frac{1}{4}$  per cent.

#### CLAIMS FOR DAMAGES FOR PERSONAL INJURY OR DEATH.

91. The Public Trustee's interest in claims for damages under the Deaths by Accidents Compensation Act, 1908, usually arises in his capacity—

- (1) As legal representative of a person whose death has been caused by the wrongful act, neglect or default of some other person; or
- (2) 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
- (3) 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
- (4) 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; or
- (5) As the statutory administrator of a mentally defective person who has suffered injury through the tortious act of another.

Where a claim exists both under the Workers' Compensation Act, 1922, and the Deaths by Accidents Compensation Act, 1908, it is usual to enforce the claim which will result in the greater benefit. Compensation and damages cannot both be recovered, but the dependants are entitled to whichever amount is the greater. The Public Trustee is not, as he is in the case of compensation moneys, the statutory custodian of moneys awarded or paid as compensation for damages, except in the case of moneys or damages recovered or awarded in any case or matter on behalf of an infant or person of unsound mind. A number of these cases came under administration during the year.

#### ESTATE INVESTMENTS.

92. I have pointed out that by reason of its many substantial advantages the majority of clients show a decided preference for the Common Fund. By means of that scheme the cumbrous and difficult system of separately investing odd and broken amounts, and the doubtful alternative of combining moneys belonging to two or more estates and investing them on one security, are avoided. In connection with the Common Fund it should be carefully noted that in so far as an estate comes into the Public Trustee's hands already invested in any form not casting liability upon him, then, unless it is his duty to convert the investments, they are retained in specie during their currency and the beneficiary gets the full interest derived therefrom, less the Public Trustee's commission. When special investment outside the Common Fund is directed by the trust instrument, whether statute, deed, or will, the direction is loyally observed, and investments are made in securities authorized by law for the investment of trust funds or in specific forms of investment expressly stipulated by the testator or settlor.

Apart from those cases where a particular form of investment is specified, most of the estate funds which do not fall into the Common Fund are invested in first mortgages of freehold land at current rates. These investments are not, of course, entitled to the State guarantee which applies to the Common Fund, but, needless

to say, every precaution required of a trustee is observed and every reasonable safeguard for the safety of the funds involved provided. It is unnecessary for me to stress that by reason of its widespread operations and the large sums of money handled in its investment operations an exceptionally wide range of suitable securities is readily available for moneys requiring special investment.

#### SHARES.

93. The subject of investment at once suggests shares in joint-stock concerns—so widely held throughout the community. On behalf of estates under administration the Public Trustee is interested in various public and private companies both in the Dominion and elsewhere, and the total value of shares controlled is now a very large amount. Shares are not trustee investments, but it often happens that where they are held in sound companies returning good dividends interested parties are desirous of having them retained. Provided proper indemnities and safeguards can be arranged, in such cases the wishes of the beneficiaries are given effect to where possible.

The acceptance of indemnities by a trustee is, however, a matter which requires careful consideration. Frequently he is urged by a *cestui que trust* to commit or authorize to be committed acts which are contrary to the express provisions of his trust or to the recognized duty of a trustee, and is offered a bond of indemnity as protection for his compliance with such a request. An indemnity of this nature may be adequate so far as the interests of the indemnifier are concerned, but it is a different matter where the interests of persons other than the indemnifier are involved. In the event of subsequent loss and action by beneficiaries apart from the indemnifier, it may be found that the protection provided is inadequate or fictitious. As has been said by a recognized authority:—

In general a bond of indemnity is a very unsatisfactory safeguard, for when the danger arises the obligers are often found insolvent or their assets have been distributed, and if the bond be to indemnify against breach of trust the Court is not disposed to show mercy towards a trustee who admits himself to have wilfully erred by having endeavoured to arm himself against the consequences.

The question of the acceptance of these indemnities is frequently arising in the case of the administration of estates. For example, life tenants sometimes press for the retention of investments returning a high yield but not falling within those prescribed by the trust instrument or the law, and offer their indemnities to the trustee. Such indemnities would safeguard him in respect of claims by the life tenants, their successors or assigns, but would not cover claims by the remaindermen, who may not be *sui juris* or even yet ascertained. Trustees are often adversely criticized for strict adherence to the statutory or testatory provisions in matters like this, but it can be readily seen how fraught with danger to themselves and the beneficiaries who are strangers to the proffered indemnity is a departure from the strictly proper course.

94. The drastic collapse in the prices of shares and company stocks in some of the principal commercial countries of the world, especially the United States of America, in the past year or so has made the question of the inadvisability of permitting the inclusion of any such assets in the category of trust investment stand out in greater relief than ever. Those who have seen their estates shrivel in value, and in many cases almost totally disappear, in the crash are now less disinclined to lend a more willing and appreciative ear to those who urge conservatism in handling trustee investments and oppose any drastic loosening of the approved restrictions on the list of legal investments. It is to be hoped that both trustees and beneficiaries alike will now have a more profound conception of the responsibilities of trusteeship, and will realize the necessity for adhering to a wise and conservative policy in seeking investments of estate funds. In England, the United States, and many other places the gigantic Stock Exchange crises and the inevitable consequential readjustments should afford trustees a respite from importuning and complaining beneficiaries who clamour for larger returns and the enhancing of their principal whenever they compare the conservative returns yielded by approved trustee securities with the more alluring dividends and the more promising chance of increasing the capital offered by many unauthorized investments.

95. Shares and other unauthorized investments raise the question of the duty of personal representatives in regard to conversion. It may be fairly said that such representative is expected to take the same care and interest in the estate under his control as a man of prudence would take for the benefit of other people for whom he is morally bound to provide. He should endeavour within one year from the date of death to pay the debts, funeral and testamentary expenses, and the legacies bequeathed by the will. There is no inflexible rule as to the time within which executors are bound to get in the assets, and each individual estate must be considered on its merits. An eminent judicial authority has said that if executors were bound at once to convert the assets without considering how far it was to the interests of the persons beneficially entitled there would, of necessity, be always an immediate sale, perhaps at a great sacrifice. In the estate which was then under review the Judge held that the executors were entitled to exercise a reasonable discretion according to the circumstances of each particular case. The will which was the subject of this judgment had directed conversion "with all convenient speed," which direction, the Judge observed, was only the ordinary duty employed in the office of every executor. It may be gathered from this that although an executor should be diligent he should not sacrifice the assets if the market is unfavourable or the time inopportune for sale. Where a testator bequeathed his personal estate to his executor upon trust to divide it equally amongst four persons designated, all of whom were *sui juris*, the Court held, in respect of bonds in a foreign company which the executors retained beyond the end of the executors' year, that, as they had acted with a view to what they deemed beneficial to the beneficiaries and in the exercise of their discretion considered it more prudent to wait, they ought not to suffer because they had committed an error of judgment. As James, L.J., observed in the Court of Appeal, it would be very hard upon executors who have been saddled with property of this speculative kind, and have endeavoured to do their duty honestly, if they were to be fixed with a loss arising from their not having taken what, as is proved by the result, would have been the best course.

Where an absolute discretion is vested in executors to postpone the sale or conversion of the estate, it seems they are not bound by the ordinary *prima facie* rule to convert the property within a year, and in the absence of *mala fides* they will not be responsible for any loss that may arise by not converting. Nevertheless, they must exercise their discretion wisely. In a case where the testator died possessed of shares in a banking company which involved a liability without limit, and the shares remained for many years, the Judge stated that there was no fixed rule that the conversion must take place at the end of one year, but that such was the *prima facie* rule, and executors who did not convert by that time must show some reason why they did not. In that case the Court directed an inquiry whether any loss had occurred by the neglect to sell at the end of one year from the date of death of the testator, and declared the executor responsible for any such loss.

Frequently, in making wills, testators, moved by the desire to make available as much of the income as possible for their beneficiaries, do not direct conversion of those parts of their estates which consist of shares which are paying good dividends, but leave to the discretion of the trustee the question as to whether such shares are to be sold or not. In one case which came under notice recently the testator directed that his trustee sell only such part of his investments as should be required to pay duties and other charges and debts, adding the expression of his wish that as much of the income as possible should be preserved for the beneficiaries under his will. In these circumstances, as there is no definite direction to hold and refrain from conversion, the question of realization of the shares is one upon which the trustee must exercise a discretion. A mere discretion to leave the whole holding of shares unsold in order to get as much income as possible would not free the trustee from liability for any loss arising from failure to realize within a reasonable time such of the shares as a prudent business man would have converted owing to their having a falling tendency or being unduly hazardous.

96. I mention all this to show how much care and anxiety are involved in handling on behalf of estates and various clients and interests shareholdings in all sorts of concerns, the total value of which represents a very large capital value indeed.

It is only by constant review and unceasing vigilance that the obtaining of the best results can be assured. The collection, analysis, and correlation of data pertinent to such a diversity of holdings is in itself a heavy task, entailing patience, accuracy, and methodical handling. In addition to the sources of information and advice usually available to trustees, the Public Trustee retains the services of a Financial Adviser, who is an expert in matters relating to financial interests, share-markets, &c. and whose duty it is to watch the ever-changing conditions of the markets and to advise upon questions pertaining to this side of the Office operations.

#### AGENCIES.

97. For various reasons persons resident in New Zealand or abroad find it necessary or desirable to appoint some one to conduct their affairs in the Dominion. Obviously, there are many cases in which the exigencies of life render it desirable or necessary for persons to secure the services of some competent agent : for example, absence from New Zealand or from the locality where assets or interests are situated ; ill-health ; lack of business experience ; desire for freedom from attendant anxiety and worry—all prompt persons to appoint an agent or attorney. The Public Trust Office offers special advantages in the matter of agency work by reason of its Dominion-wide organization and competent representation here and elsewhere enabling its clients to keep in close touch with a responsible representative of the Department for the purpose of obtaining reliable information, passing on instructions, or receiving income as it becomes due.

Agency work is of a fiduciary nature and akin to trusteeship. Agents and trustees are alike in this respect—they both act and exercise their functions and authorities on behalf and in the interests of other persons. Both, in a certain sense, represent and stand in the place of other persons, these being called principals in the case of agencies and beneficiaries in the case of trusts. The essential difference between a trustee and an agent is that the former exercises powers which in the eye of the law are his own, whereas the latter exercises by way of delegation powers which are in law those of his principal. However, in operation and in deed and substance, so far as the mere fact of the matter is concerned, these two situations are identical. Both trustee and agent are employed, authorized, and entrusted with the care and management of another person's property on his behalf.

98. The agency business of the Office has been steadily growing in recent years, and year by year shows that an increasing number of persons appreciate the services rendered by the Department in this connection. The Public Trustee is in a special position to obtain investments for his clients either by way of mortgage, or in stocks, bonds, debentures, shares, or any other form of investment directed by them. The income is promptly collected and disbursed in accordance with the principal's direction, and particular care is taken to see that he is protected in every reasonable way. When mortgages and other similar investments mature the amounts due are collected and reinvestment is arranged in accordance with the wishes of the principal.

It is the duty of an agent to keep the money and property of his principal separate from his own and from that of other persons. Likewise, he must prepare and be constantly ready with correct accounts of all his dealings and transactions. The Office accounting system has already been outlined in this report, and I have set out the painstaking manner in which the accounts are kept and prepared for the clients whose affairs are handled by the Public Trustee, and the provisions which exist for prompt remittances to any part of the world.

#### RESEALING.

99. A grant of probate or administration made by the Courts of another country has of itself no direct effect in New Zealand. It is provided by section 42 of the Administration Act, 1908, that estate in New Zealand belonging to any person who dies abroad shall not vest in any person under any bequest or devise or under an intestacy or by inheritance until administration of such estate is granted in New Zealand, or, if probate or letters of administration of such estate have been granted in any place out of New Zealand, such probate or letters of administration are

resealed in New Zealand as provided in the Act. Hence, in general, an executor or administrator of the estate of a deceased person who has obtained a grant from a Court of an overseas jurisdiction is required to obtain a further grant out of the Court of this country to enable him to deal with assets situated here. There has, however, been made in this Dominion provision whereby probate or letters of administration granted by any Court of competent jurisdiction in any other part of His Majesty's Dominions may be recognized and, as it were, validated in New Zealand by the operation of sealing such grant with the seal of the Dominion Supreme Court. This process, which is referred to as "resealing," considerably simplifies the matter of constituting representation in this country, inasmuch as it obviates the necessity of proving due execution of the will, the death of the deceased, the rights of the grantee to a grant of probate or administration, and other kindred matters, the original grant being accepted by the Court in New Zealand as sufficient evidence on these points. During the year under review the Public Trustee has acted on a number of occasions on behalf of executors and administrators in various parts of the Empire and elsewhere in matters of resealing and obtaining ancillary grants in New Zealand, and conducting the administration of assets situated in this country. The Office is well equipped to act in this way for personal representatives abroad who have no agents here, and the number of cases entrusted to the Public Trustee indicates that as the knowledge abroad of the institution grows this part of its agency work correspondingly increases.

#### ADMINISTRATION OF ASSETS ABROAD.

100. I have just made reference to the fact that frequently executors or administrators of estates of persons domiciled overseas have to deal with assets situated in New Zealand. Conversely, it often happens that the Public Trustee has, on behalf of estates under administration, to deal with assets outside New Zealand. Reciprocal provisions in regard to resealing are in existence within the British Empire, and this process is available when assets within these confines require administration. Outside the Empire a grant has to be obtained from the Court of competent jurisdiction in the country concerned to enable assets to be dealt with.

During the course of years property interests in almost every civilized community have required attention, and wide experience has been gained in regard to foreign procedure and applications for administration in foreign jurisdictions.

When assets overseas require administration, a suitable representative in the country concerned is appointed to act in obtaining administration or in having the New Zealand grant resealed. In the British Empire the services of those State officials whose functions are similar to those of the Public Trustee are available. Circumstances frequently exist which render advisable the employment of a private legal firm (*e.g.*, by reason of previous connection with the estate concerned), and in these cases the work is entrusted to such firm. During last year assets in many foreign jurisdictions (*e.g.*, Poland, Yugo-Slavia, Syria, and China) were amongst the large amount of foreign property dealt with in the course of the administration of estates.

#### FAMILY PROTECTION ACT, 1908.

101. This important provision nowadays plays no small part in the administration of wills estates. The purpose of the statute is not accomplished by direct limitation of a testator's power of disposition, nor by any express declaration that those persons who are within the scope thereof shall be entitled to any portion of his estate, but is effected indirectly by empowering the Court to interfere with and override a testator's disposition on due application by a wife, husband, or child. The Act has been designed to enforce the moral obligations of a testator to use his testamentary powers for the purpose of making adequate provision after his death for the support of the wife (husband) and children, having regard to the means and deserts of the testator and to the relative urgency of the various moral claims on his bounty.

102. In recent years there seems to have been a tendency on the part of the Courts to be more liberal in the provision ordered for dissatisfied dependants who come within the meaning of the Act. It should not be forgotten, however, that the

powers conferred on the Court ought to be exercised with very great caution. As was pointed out by one of our Judges many years ago, the statute was never intended to enable the Court substantially to make for the testator such a new will as it considers upon the evidence before it that he ought to have made. It is interesting and instructive to note the remarks of Edwards, J., in the case of *Plimmer v. Plimmer* (9 G.L.R. 10):—

In the case of a widow, the difficulties that surround the exercise of these powers are comparatively small. There are few persons who will not think that every testator, whatever may have been the differences between his wife and himself, ought to provide for his widow in a reasonable manner unless she has clearly been guilty of some grave breach of the law or of conventional morality. The statute provides that, if she has, such matter may be brought before the Court in answer to her claim. In the case of adult children the case is far more difficult. No one can ascertain, and it is quite incapable of proof, what circumstances may justify a parent in disinheriting his child. Habitual disrespect, an evident determination not to devote himself to useful pursuits but to live upon the proceeds of his father's labours rather than upon his own, or an idle, useless life, may well justify a father in leaving his son wholly unprovided-for by his will; and this may really be in the interest of the erring son, for there are many who under the stress of necessity may become useful and fairly reputable members of society who cannot withstand temptation which money affords. Yet it would be quite impossible to bring such matters before the Court in a tangible shape. It is of the breath of family life that the family skeleton is kept in the family cupboard. The powers given by the Act should therefore, I think, be exercised with extreme care and caution, and it should not be sufficient for a claimant under the statute to show merely his relationship to the testator and his own immediate needs.

103. The Act affects the Office in many ways—*e.g.*, as executor of the testator, members of whose family take proceedings under the Family Protection Act; as the personal representative of a person entitled to take proceedings against some other estate under the Act; as executor applying on behalf of any person entitled to apply who was an infant at the date of the testator's death or is of unsound mind, or asking the Court for directions as to whether he should so apply. Section 7 of the Mental Defectives Act, 1921, provides that the Public Trustee may make a claim on behalf of a mentally defective person, provided that such person is eligible, and notwithstanding that he is or is not possessed of any estate. At times claims against a testator's estate require a considerable amount of correspondence and inquiry before the Public Trustee is in a position to have the estate properly protected in the Court proceedings.

Sometimes the Public Trustee is criticized by uninformed persons for opposing the claims of widows and children under the Act. It is often said that "the Public Trustee fought the application by the widow when it was quite clear that adequate provision had not been made for her." The material point which these critics seem to overlook is that the Public Trustee is bound to appear as defendant and have the application settled by the Court even in the most deserving cases. The plain duty of the Public Trustee or any other executor is to uphold the will as admitted to probate, and to administer the estate in accordance with its provisions. Obviously, it is not within the province of an executor to give any relief beyond the provisions of the will unless ordered to do so by the Court under the Act.

#### CLAIMS AGAINST ESTATES.

104. One of the first duties of the personal representative of a deceased person is to arrange the payment of the debts and the discharge of the liabilities existing at the date of death. As a matter of prudence, notice is given to all creditors and others having any claim against an estate to send in their accounts before a certain date. At the inception of the administration suitable notices are inserted in the press calling for claims to be rendered to the Public Trustee. Usually one insertion in a newspaper circulating in the district where deceased resided or carried on business in New Zealand immediately prior to his death is sufficient. The circumstances of each case, however, are taken into consideration, and, if necessary, further notices are arranged. These advertisements are issued in pursuance of an empowering provision in the Office Act, and in addition, as a matter of precaution, all persons who are known to have claims against the estate are written to and asked to render them to the Public Trustee.

In many cases satisfactory details in support of claims are not forthcoming or the circumstances are such that payment would not be warranted except under a judgment of the Court. In circumstances such as these an executor or administrator very often has no option but to disallow claims and to put claimants to the proof in the Court if the claims are persisted in. On occasions individuals bitterly resent the disallowance of their claims, but consideration should show that in the case of a person acting in a fiduciary capacity such a course is necessary and desirable whenever a claim cannot otherwise be clearly established.

During the year a number of troublesome and difficult claims against estates were dealt with in the course of the administration work. Court action was resorted to by claimants in some of these cases, and this involved considerable correspondence and investigation.

#### DEATH DUTY.

105. A prominent factor in the administration of estates is the assessment and payment of estate and succession duty. It is the duty of every executor or administrator to file with the Commissioner of Stamp Duties a statement in the prescribed form showing specified particulars regarding the dutiable estate of the deceased and with respect to the interests of the several successors of the deceased.

It is often a difficult matter to arrive at the value of the various assets and interests which form part of the dutiable estate—*e.g.*, goodwill in business or hotels, shares in family or private trading concerns not quoted on the Stock Exchange, interests in patents, &c. The greatest care is taken by the Public Trustee to protect the estates under his control and to see that no more duty is levied than is properly payable. The legislation governing death duty is complicated, and requires expert and careful study to enable the operation of the various provisions to be fully comprehended. The departmental officers, by reason of their constant handling of so many estates, are well acquainted with the provisions of the relative Acts and familiar with their effect. In a number of cases where estates which were formerly administered by other trustees have been subsequently transferred to the Office it has been found that the proper apportionments of estate and succession duty amongst the various beneficiaries have not been made, and in some instances adjustments involving substantial amounts have had to be made.

106. In New Zealand provision is made for two concurrent levies in the nature of death duties upon estates of deceased persons—that is to say, (1) estate duty, levied over the whole of the estate, irrespective of its mode of distribution amongst beneficiaries, and (2) succession duty, imposed in respect of every interest “acquired or possessed by any person as the successor of the deceased within the meaning of the Act.”

107. Certain questions of difficulty frequently arise in the administration of estates regarding the adjustment, as between successors of the payment of estate duty and succession duty. The object of the Death Duties Act, 1921, is primarily to provide for the payment of duties, and to secure such payment to the Crown. In effecting this object the Act has disregarded the difficulties and questions which may arise between the various successors in connection with the apportionment of this duty *inter se*, and particularly between life tenant and remaindermen. The Act provides that estate and succession duty are payable as between the several successors in accordance with the directions of the will, “so far as regards any property which is subject to the dispositions of that will.” Subject to such directions, succession duty is payable out of the property in respect of which it is assessed. The administrator has to provide these duties within the prescribed period, which is almost immediately, and so in the absence of testamentary exoneration there arises the necessity of withholding the whole of a life tenant’s income or an annuitant’s instalments of annuity until the impounded amounts provide for the liability of such successor for any duty which may be payable.

Apart from the practical difficulties which are constantly confronting an executor or administrator in the adjustment of estate and succession duty on the interests of life tenants and remaindermen, it is obvious that hardship must often operate to these persons, especially life tenants and annuitants, from the impounding of their income or allowances. As Edwards, J., pointed out in *In re Holmes* (1913



N.Z. L.R. C.A. 577, at p. 602), it is frequently “most grievous for a life tenant—generally a woman who has a family of children entitled in remainder, and who has no other means of support for herself or them—to have the whole of her income diverted for a period in payment of succession duty.”

If the life tenant be other than the widow or widower the rate of duty payable may be so great as to render necessary the impounding of the income for several years to provide for the amount. On the other hand, it must be remembered that should a personal representative pay over a portion of the income to the life tenant and the life tenant subsequently die before the whole of the amount of duty has been recouped, such personal representative in all probability would be held personally liable for the amount of the income so paid over. It is true that in some cases it might be possible to take from a life tenant security by way of a life policy in consideration of the postponement of the deduction of the duty from the income, but such a course could not always be arranged—*e.g.*, where the beneficiary concerned is in such poor health, or of such an age, that an insurance cover could not be completed. In instances like this the executor or administrator would obviously be taking serious personal risks by departing from the rule of adjustment which has been laid down.

108. This is only one of the difficulties and hardships which arise. Of course, provision for questions like this should be made in a well-drawn will, and departmental officers in taking instructions for wills explain to testators the operation and the incidence of duty, in order that they may include in their wills express provisions to give effect to their wishes in this connection. In home-drawn wills and those drafted by inexperienced persons, however, no such provision is made, and so it is hoped that in the future it may be possible to arrange for amending legislation to mitigate as far as practicable these hardships and difficulties which affect not only the work of the Public Trustee, but also that of all persons and concerns conducting the administration of estates in New Zealand.

109. The liability of the assets of a deceased person to payment of death duty depends to a large extent upon his domicile. If, for example, a person is domiciled in New Zealand at the time of his death, his movable estate (which, roughly, means all his property other than real estate), wherever situated, is taxed by the New Zealand authorities by way of New Zealand death duties. The same result takes place where deceased is domiciled in Great Britain or other component parts of the British Empire. It is often extremely difficult to fix with any degree of certainty the place of a person's domicile, and it is only to be expected that in case of doubt each jurisdiction may put forward competing claims for the right to tax foreign movables on the ground that the deceased was domiciled in their respective territories. For example, supposing a person residing in England comes to live in New Zealand and after a while dies here, leaving extensive personal property in Australia, the revenue authorities may claim that on the evidence before them the deceased was domiciled in New Zealand, so as to bring into the New Zealand dutiable estate the movable estate outside the Dominion, including his Australian assets. On the other hand, the English revenue authorities may point to other facts and circumstances, tending to show an English domicile, and may on such evidence base a decision that the deceased was domiciled in England at the time of his death, so as to render subject to the English death duties the Australian assets. Obviously, it would be desirable to have some working arrangement between the revenue authorities of different parts of the Empire which would avoid or settle such conflicts of opinion without recourse to expensive litigation or lengthy correspondence. It is hoped, therefore, that before long there may eventuate some such arrangement whereby the revenue authorities will agree to accept in such cases the decision of the Law Officers of the State in which deceased died, or, alternatively, of the State in which the greater portion of the assets were physically situated at the time of death.

110. Whilst on the question of estate and succession duty, I may state that inexperienced persons not infrequently lump together the various levies payable to the Crown with the Office commission or fee, and put down the total as “what it cost to have the estate administered by the Public Trustee.” I have before me a case of a moderate estate which was given to a stranger in blood, who by virtue of section 17 of the Death Duties Act, 1921, paid succession duty at the rate of 10 per



cent. A critic confused the Office charges by adding this high rate of duty to the moderate commission which actually had been charged by the Department. Every statement of account sets out clearly the amount of the Office charges so that these may be plainly seen by the beneficiaries and those acting on their behalf.

111. Besides providing for an increased levy of estate duty on estates of persons dying after the statute comes into force, the English Finance Act, 1930, contains one or two matters of general interest in regard to this duty, particularly to those persons in New Zealand who have assets in England.

One of these provisions relates to duty on the property of a deceased person which has been transferred to a private company. The definition of "private company" applies not only to private companies within the meaning of the Companies Act, 1929, but to companies which though technically not private are so in practice, because the effective control is restricted to a small body of shareholders. The new Finance Act imposes the charge of estate duty in cases where the deceased has transferred property to a private company "so that it does not 'pass' on his death," but has continued to enjoy the use of it or to obtain payment from the company in lieu of the income which he formerly derived from the property. The property referred to includes not only that of which the deceased person was the absolute owner, but also that of which he was the life tenant. The Act contains also an important provision as to the basis on which shares in a private company should be valued for estate-duty purposes.

112. It is interesting to note that the Finance Act also amends the existing statutory provisions in regard to objects of national, scientific, historic, or artistic interest, such as pictures, prints, books, manuscripts, scientific collections, &c. Where any such objects pass on the death of any person, whilst they are enjoyed in kind they are exempt from death duties and their value is not to be taken into account for the purpose of estimating the total value of the estate possessions on the death of the deceased or the rate at which estate duty shall be chargeable. In the event of a subsequent sale, however, the proceeds are liable to duty. The amendment in the new Act provides that the amount on which estate duty is to be charged on the occasion of a sale will be not, as has hitherto been the case, the value of the object at the date of the owner's death; it will now be the amount realized by its sale. Also, the rate at which estate duty will be charged will be that applicable to the rest of the property that passed on the owner's death, excluding the works of art, &c., in question. It will therefore be no longer necessary to value them at the time of death. Death duties are not chargeable if the sale is to the National Art Gallery, the British Museum, or any other similar national institution, any University, County Council, or Municipal Corporation in Great Britain, or the National Art Collections Fund.

#### LIFE POLICIES.

113. Life policies continue to be a very common form of asset in the estates reported for administration, especially in the estates of persons of moderate means. Life insurance is regarded by many persons as one of the simplest and cheapest ways of providing for one's dependants, and for a vast number of people it is probably the only practicable method of doing so. Statistical records show that the life policies in force in New Zealand in 1927, including ordinary and industrial, amounted to £92,110,221, and each year brings a material increase to this total. Death claims settled each year aggregate a very large sum, and for the year ended 31st December, 1927, amounted to £536,610 in New Zealand.

This source of funds is of especial importance in the administration of estates, in view of the fact that life-insurance moneys are settled in cash, and not in assets, which may be unmarketable or slow to realize. The periodical reports of the English Commissioners of Inland Revenue contain an interesting classification of all property coming under the charge of estate duty, and show the amount of life-insurance moneys separately, divided by ranges of estates. From the latest report it is gathered that of a gross capital of nearly £570,000,000 coming under charge in the financial year 1928-29 life insurance accounted for £18,650,000—i.e., 3·3 per cent. of the total.

114. A point unknown or overlooked by many is that there is afforded to the proceeds of life-insurance policies a certain measure of statutory protection from the claims of creditors and legatees. The Life Insurance Act, 1908, provides that life-insurance policies to the amount of £2,000, together with accrued or allotted profits thereon, or annuities to the amount of £104 by the year, shall not pass in bankruptcy or become available for payment of debts on intestacy, nor, when the life-policy holder died leaving a will, be applied for payment of debts or legacies unless the will expressly provides for this to be done. Neither a general bequest of personal estate in trust for payment of debts and legacies, nor a general direction for the payment of debts or legacies out of any portion of the estate of which, under the will, the life-policy proceeds would form a part, is sufficient to render such moneys available for payment of debts or legacies: the direction must be specific.

During the year a large number of death claims were settled in connection with the estates under administration. These included policies in most of the principal life-insurance concerns throughout the British Empire. In regard to life-insurance companies incorporated in England, it is provided by section 19 of the Revenues Act, 1889 (Imperial), that where the only asset in England consists of a life policy and the policyholder dies elsewhere, the moneys payable thereunder may be collected without a grant of probate or administration being taken out in England. All that is required is the production of the grant in the jurisdiction where the deceased died. This provision is availed of whenever circumstances are applicable, and by this means the collection of the proceeds considerably expedited.

#### PROVIDING FOR THE LIABILITIES OF AN ESTATE.

115. It is surprising how many people fail to understand just what is involved in the administration of estates. They have hazy impressions of the assets and perhaps a few liabilities, and they may vaguely realize that the latter have to be provided for. It is natural for people to think and speak of assets rather than liabilities, and to regard thoughtlessly gross assets as net, hoping that, somehow or other, any existing debts will be paid. A man owning a house worth £2,000 if mortgaged for £1,000 likes to regard himself as owning a £2,000 property, and perhaps, consciously or unconsciously, gives that impression to his family, his friends, and sometimes his creditors. Unfortunately, liabilities seldom shrink without actual payment, and frequently they not only fail to diminish, but are more likely to augment from accumulated interest, taxes, &c. An estate may be a valuable one, but it may be largely involved in debt at the time of the death of the owner, and may be without assets which are liquid, or readily rendered so, to provide for the payment of the liabilities. As has been truly said, death creates further liabilities, including funeral and testamentary expenses and estate and succession duty, which must be liquidated within a comparatively short period.

Testators sometimes overlook the necessity for making provision for the early payment of death duties on their estates, their debts, and the legacies under their wills, with the result that financial difficulties confront the executor or administrator in the administration of their estates. At times, too, dependants may have to suffer by reason of there being no ready cash available for their maintenance. The Public Trustee has special facilities (referred to elsewhere in this report) for financing in suitable cases estates administered by him, and thus providing funds to meet obligations, bequests, &c.

A substantial number of estates were so financed during the past year. For one reason or another, however, it is not always possible to arrange the required finance, and provision for these liabilities and obligations might often be conveniently made during a person's lifetime by the creation of a trust, directing investment either in the Common Fund or in special investments outside the Common Fund of such a sum as may be deemed adequate to cover them. Under such an arrangement provision may be made for the regular payment of the resulting income to the settlors during their lives or for its accumulation and capitalization towards the purposes of the trust.

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

116. It sometimes happens that on the maturity of a mortgage there is no person in New Zealand who is authorized to give a discharge. The reason may be that the mortgagee is deceased and that administration of his estate has not been taken out, but, as a rule, the situation arises through the mortgagee being absent from New Zealand and not having left any person in this country with the necessary authority to act on his behalf. By section 75 of the Property Law Act, 1908, and section 117 of the Land Transfer Act, 1915, provision is made for the discharge of a mortgage under such circumstances. Under these sections the Public Trustee, on tender of the mortgage debt, and on his being satisfied that the amount tendered is the whole sum which is due, may receive it in trust for the mortgagee and give an effective discharge for the mortgage. The amount collected is, after deduction of a small fee to cover the services of the Public Trustee, remitted to the absent mortgagee or his order, or paid to him on his return.

The provisions are of convenience both to mortgagors and to mortgagees. To the former in that they are enabled to clear their indebtedness without delay and to make any rearrangements of finance contemplated by them; and to the latter in that the moneys due are collected on their behalf and either held in safety pending their return, or remitted to them, as they may desire. Mortgagees have on more than one occasion expressed appreciation of the services of the Public Trustee under these sections, and have been relieved to find that the mortgage moneys have been safely collected, though they had omitted to make the necessary arrangements to ensure collection.

During the year five mortgages were discharged under these provisions, the amount of principal and interest collected totalling £1,748 12s. 9d.

LIFE INSURANCE ACT, 1908 : MINORS' POLICIES.

117. When dealing with the estates of those persons under disability administered by the Office, I pointed out earlier in this report that infants are universally recognized as a class which, by reason of their immaturity, the law singles out for special protection. In pursuance of this policy of protection, provision has been made for the safeguarding of minors in regard to transactions relating to policies over their lives. Section 75 of the Life Insurance Act, 1908, requires the Public Trustee's consent in order to validate the various dealings by minors with their policies. Under this section a minor policyholder of or over the age of fifteen years may, with the consent of the Public Trustee, surrender, give a discharge for, dispose of by sale, or otherwise deal with a policy of insurance on his life as if he were of full age. This provision removes the disability under which an infant would suffer by reason of his minority, should he find it necessary to deal with his life policy, and at the same time safeguards him against imposition or undue influence, &c., by designing persons, to which he would be more subject by reason of his tender years.

The test applied in regard to applications of this nature is whether the best interests of the minor would be served by a proposed dealing, and good reasons must be forthcoming before the Public Trustee's consent is given. The services of the Office and the helpful advice tendered to youthful policyholders in circumstances that are plainly to their disadvantage have more than once been favourably commented upon. During the year 170 consents were given, made up as follows : Surrenders, 67 ; loans, 56 ; assignments 34 ; reduction in amount of policy, 5 ; payment or proceeds on maturity of policy, 2 ; consent to make will disposing of proceeds, 6. This total does not include all the cases dealt with, because a number were not proceeded with after the applicants had a discussion with departmental officers, and others were declined on being found to be disadvantageous to the infant policyholders.

118. A constantly recurring matter which causes confusion to policyholders is that of the legal effect of a policy of assurance taken out by one person over the life of another. In the ordinary course it appears that such policy belongs to the person taking it out—that is, the proponent. This causes surprise to parents who have arranged the policies with the intention of benefiting their children and making

the policies the property of their children. Certain insurance companies are now drawing the policies which form the basis of the contract of insurance in cases like this in such a form that there will be no doubt that the intention of the proponent is given effect to.

119. The provisions of section 75 of the Life Insurance Act whereby a minor, with the consent of the Public Trustee, is enabled to make a testamentary disposition of the proceeds of a policy over his life continue to be availed of. The usual reason for the making of such wills is the desire on the part of the minor testator to divert the proceeds from the specified channels of distribution. In most cases the legal successor in the event of intestacy is, in the opinion of the minor, unworthy; but before consent is given the Public Trustee satisfies himself that there is good and sufficient reason for consenting to the testamentary disposition. A common case is where a child wishes the life-policy proceeds to go to a widowed mother. Under the law of intestacy, where a child dies and is survived by his mother, brothers, and sisters, the mother shares equally with the brothers and sisters. Consequently, unless there is a testamentary disposition, in these circumstances the proceeds of a small policy might be divisible amongst a mother and several adult children doing for themselves and scattered over the country, whereas the needs of the mother were strongest both on moral grounds and the actual state of affairs. Six consents under this head were given during the year.

#### UNCLAIMED LANDS AND UNCLAIMED PROPERTY.

120. As has been said, unclaimed property and moneys “arise mostly from the vagaries, the tragedies, and the carelessness of human nature.” It is necessary that the administration of such property be provided for, and one of the public services imposed on the Public Trustee by statute is that of the administration of unclaimed lands and unclaimed property. The statutory provisions are now contained in Parts II and III of the Public Trust Office Act, 1908, which relate to unclaimed lands and unclaimed property respectively.

121. The reasons why, in a country newly settled, such as New Zealand, land was left unclaimed were referred to in my report of last year. With closer settlement and with the passage of years, the number of applications to have land administered as unclaimed is declining. Lands in regard to which the necessary conditions precedent to administration by the Public Trustee as unclaimed are shown to exist are vested in the Public Trustee in trust for the missing owner and are administered for his benefit, the Public Trustee in conducting such administration being bound to exercise the diligence and care which a reasonable, prudent, and careful trustee would exercise in like circumstances to protect the interests of the owners. If before the expiration of twenty years the missing owner does not establish his title, the land, or the proceeds of sale if it has been sold, become the property of the Crown.

It is worthy of note that the statute may be invoked to protect the interests of a missing owner when land is being occupied adversely to him. Title acquired by adverse possession for the statutory period would prevent application of the provisions relating to unclaimed lands and the vesting of the land in the Public Trustee, but a trespasser who had not been in occupation long enough to obtain title in this manner could be ousted and the land vested in the Public Trustee in trust for the true owner.

On the 31st March last the value of unclaimed lands under administration by the Public Trustee, and cash representing rents and proceeds of sale undistributed, amounted to £4,987.

Section 85 of the Public Trust Office Act, 1908, requires the Public Trustee to submit once every three years to the Minister of Finance, for presentation to Parliament, returns of the lands reported to him for administration as unclaimed. The last triennial return was duly submitted last year, and so the next one will be due in 1932.

122. The statutory provisions regarding unclaimed property could, if necessary, be applied to unclaimed land as well, but the primary purposes of the two provisions are somewhat different from each other. The object of that regarding unclaimed

land is to provide power for administration of such land where necessary or expedient to do so, whereas the provision relating to unclaimed property aims at providing power to protect the interests of the missing owner or any other person in property if in their interests it is advisable to do so. Unlike those in regard to unclaimed lands, the applications for the administration of unclaimed property are not decreasing, and each year brings forth a fresh number of cases. It happens at times that the owner is missing for no known reason; but most frequently the owner has disappeared under circumstances which indicate death by misadventure, but where the evidence available does not warrant immediate application to the Court for leave to swear death, or where the Court has refused such leave. In cases such as this it frequently is very necessary that prompt action be taken to protect the missing owner's assets, and the statutory provisions and the availability of the services of a public official whose duty it is to give the necessary attention prove most valuable. For example, on occasion when a back-country settler has disappeared leaving a farm and stock requiring attention, the necessary steps have been taken by the Public Trustee to attend to the farm and to provide for the care of the stock; where a town dweller has disappeared, the Public Trustee has taken any steps necessary to protect his assets and to arrange maintenance for any dependants.

In the handling of the property of a missing person it is the Public Trustee's duty to protect the interests of the missing owner, and this is the principle which guides the administration. All moneys received are held in trust for him, save such funds as are applied in proper exercise of the powers conferred upon the Public Trustee, which briefly are: to enter into possession of the property; to perform certain of the missing owner's obligations; to sell (although this power is not exercised unless it is necessary or expedient, in the interests of the missing owner, or in order to carry out his obligations); and power to apply moneys on account of the maintenance of the wife, husband, or children of the owner.

Unclaimed property to the value of £6,475 was under administration by the Public Trustee on the 31st March last.

123. The unclaimed property referred to above comprises that with which the Public Trustee is actively concerned in administration and protection. In addition, it often happens that there are in bankrupt estates unclaimed dividends and unclaimed surpluses, which, under the provisions of the Bankruptcy Act, are paid by the Official Assignee to the Public Trustee. Surpluses in respect of the proceeds of properties sold by the rating authorities for default in payment of rates are sometimes unclaimed, and these also are, as is provided by statute, paid to the Public Trustee by the local bodies concerned. On the 31st March last the amount held under the Bankruptcy Act provisions was £6,837 11s. 5d., and under the Rating Act, £1,197 19s. 9d.

124. Moneys which come into the hands of the Public Trustee as unclaimed, and for which no owner appears, are, if not applied in exercise of the powers conferred upon the Public Trustee, transferred to the Consolidated Fund after expiry of a certain period. This transfer does not, save in a case of unclaimed land administered under Part II of the Office Act, operate to bar the claims of the lawful owner should he at any time reappear and establish his rights.

#### CHARITABLE AND PUBLIC TRUSTS.

125. The Office facilities and organization render it peculiarly well adapted for the administration of charitable and other public trusts, and ensures continuity of control in the case of those of long-continuing duration. Moreover, section 4 of the Public Trust Office Amendment Act, 1912, provides simple machinery whereby funds raised by public subscription can be readily vested in the Public Trustee, and at the same time the terms of the trust clearly defined. Under this section the representatives of subscribers may arrange with the Public Trustee a scheme of trust to be submitted to the Supreme Court for approval or modification. As charitable and public trusts are of general interest to the community, and,

moreover, as a knowledge of them tends to stimulate other citizens to emulate the example of the benefactors of the past, a summary of some of the more important of these trusts at present under administration is given :—

*Kaitangata Relief Fund.*—This is one of the oldest funds under administration by the Public Trustee, and has been controlled by him since 1892. As the Kaitangata disaster occurred as far back as 1879, there is now only one dependant in receipt of an allowance from the funds. The Kaitangata Relief Fund Transfer Act, 1892, and subsequent amendments provided that the fund, after providing for the dependants and victims of the original disaster, is to be available for the relief of widows and children of coal-miners who may lose their lives as the result of any subsequent mining disaster in New Zealand. Thus it is always possible that there may be further demands on the fund at some future date. In past years I have referred to the movement which is being made to have passed amending legislation for the purpose of making the balance of this fund available for the descendants of those who lost their lives in the original coal-mining disaster at Kaitangata. At the 31st March, 1930, there was £4,036 8s. 10d. to credit of the fund.

*Brunner Disaster Fund.*—This relief fund originally amounted to £31,000, and was raised in 1896 by public subscription through New Zealand and Australia for the relief of widows, children, and other dependants of miners who lost their lives in the disastrous explosion which occurred that year at the Brunner Mine. The number of dependants was large, and the maintenance payments over the intervening thirty-four years have now reduced the fund until at the 31st March last the balance remaining amounted to only £519 17s. 5d. There are still fourteen dependants, and during the past year £416 was paid to them by way of allowance. The fund has served a most useful purpose over a long period, and it is a matter of regret that in next year's report it is probable that I shall have to notify the exhaustion of the cash balance.

*Dobson Relief Fund.*—On the 3rd December, 1926, an explosion occurred at the Dobson Mine, Grey Valley, which resulted in the loss of nine lives. A fund was raised by public subscription throughout New Zealand for the assistance of the dependants of these unfortunate miners. The appeal resulted in £2,799 being raised, and this was entrusted to the Public Trustee for administration and investment in the Common Fund. During the year under review the sum of £208 10s. was paid to the six dependants, and the amount at credit of the fund at the 31st March last stood at £2,549 15s. 7d. As is usual in cases of this kind, the Public Trustee makes no charge for his services in administering the fund.

*Kirkpatrick Masonic Institute for Girls.*—Under the will of the late Mr. Samuel Kirkpatrick, of Nelson, the well-known manufacturer of "K" jam and kindred products, who died in 1925, it was directed that the testator's home was to be converted into a home for orphan daughters of Freemasons of the English, Scottish, Irish, and New Zealand constitutions throughout the Dominion. In pursuance of the terms of the will, of which the Public Trustee is executor and trustee, the income from the residue of the estate is to be utilized for the maintenance and management of this home. The residence has been converted to meet the requirements, and now makes an admirable home for children, which has become known as the Kirkpatrick Masonic Institute. The Public Trustee is solely responsible for the administration of the estate, but is not concerned with the actual management of the home. The Board of Governors elected by the Masonic constitutions receives the income of the estate from the Public Trustee and is responsible for the expenditure upon the general purposes of the institution. In order to facilitate the conduct of the Institute and to make it more useful for the purposes for which it was designed, the Board of Governors is desirous of obtaining certain extensions of their existing powers. Notable amongst these proposed extensions is the power to accept additional bequests and donations of real and personal property from other sources, to be vested in the Public Trustee for the general purposes of the Institute. Accordingly, during the present session of Parliament a private Bill is being promoted on behalf of the Board with the object of giving legislative authority for the proposals which are being entertained by them in connection with the conduct of the Institute.

*Coal-miners' Relief Fund.*—In terms of the Coal-mines Act, 1925, the Public Trustee administers this relief fund, which is provided by a levy on the mine-owners, calculated at the rate of  $\frac{1}{2}$ d. per ton of coal produced. At the 31st March, 1928, there was at credit of the fund the sum of £26,156 11s. 2d., but by the 31st March, 1930, this had, through heavy calls, been reduced to £24,180 6s. 7d. The following is a comparison of the transactions for the past two years:—

1928-29.				1929-30.			
	£	s.	d.		£	s.	d.
Balance at 31st March, 1928 ..	26,156	11	2	Balance at 31st March, 1929 ..	25,471	3	10
Add contributions and interest ..	6,258	4	9	Add contributions and interest ..	6,235	17	8
	32,414	15	11		31,707	1	6
Deduct relief granted to miners and dependants, plus administration expenses ..	6,943	12	1	Deduct relief granted to miners and dependants, plus administration expenses ..	7,526	14	11
Balance at 31st March, 1929 ..	£25,471	3	10	Balance at 31st March, 1930 ..	£24,180	6	7

*Thomas George Macarthy Trust.*—This generous trust continues to extend considerable benefits to charitable and educational objects throughout the Wellington Province. In terms of the will of the testator, for the present one-half of the net income from the estate is to be applied for such charitable and educational purposes and institutions in the Provincial District of Wellington, in such manner and in such proportions as a Board of Trustees nominated in the will shall decide. This Board of Trustees has now been incorporated by the Thomas George Macarthy Trust Act, 1912, under the name of the Board of Governors of the Thomas George Macarthy Trust. On the termination of certain annuities and other interests the whole of the income from the residuary estate will be available for such purposes. The trust has now been in operation for seventeen years and during that period the handsome sum of £153,027 has been allocated to charitable and educational purposes as specified by the testator. The following table sets out the yearly allocations since the inception of the trust:—

£			£		
1913 ..	..	2,530	1923 ..	..	9,350
1914 ..	..	7,325	1924 ..	..	10,125
1915 ..	..	7,070	1925 ..	..	12,040
1916 ..	..	6,880	1926 ..	..	13,600
1917 ..	..	5,790	1927 ..	..	14,500
1918 ..	..	5,112	1928 ..	..	15,000
1919 ..	..	6,545	1929 ..	..	14,500
1920 ..	..	6,785			
1921 ..	..	6,860			
1922 ..	..	9,015			
					£153,027

The Board of Governors has, on a number of occasions, congratulated the Public Trustee on the care and efficiency with which the trust continues to be managed.

It is a matter of public interest to know that the Thomas George Macarthy Trust Act, 1912, contains an important provision empowering the governing body to accept and to administer other trusts for charitable and educational purposes in accordance with the provisions of the instruments constituting the trusts. Thus it will be seen that persons desirous of doing so may utilize the services of a permanent and responsible body, such as the Board of Governors is, and ensure that by entrusting the distribution of the available funds to that permanent and responsible body such distribution will be made to the best advantage, and the deserving objects within the scope of the trust assisted and fostered as far as possible in accordance with their needs from time to time. The provision made in this Act resembles what is known in the United States of America as the "community trust" or "permanent charity organization."

During the past year two citizens of the Dominion have availed themselves of this special and very useful provision. The first of these was Mr. Henry

Wilshaw, a resident of Wellington, who died on the 2nd February, 1930, and who appointed the Public Trustee executor of his will. He has directed that the residue of his estate be held upon trust for such charitable purposes in the Provincial District of Wellington as the Board of Governors of the Thomas George Macarthy Trust direct. It is understood that the residue of the estate should be between £1,500 and £2,000, but it is too early to judge as yet what the exact amount will be. The other testator to whom the provisions of the Macarthy Trust Act have appealed as a convenient method of carrying into effect the principal charitable object under his will is the late Mr. James Trewin, who died at Feilding on the 11th March, 1930. Mr. Trewin has also appointed the Public Trustee his executor and trustee, and has directed that the residue of his estate, after providing for sundry bequests, shall be held for a specified period, and then, with accumulations of income, invested in the Common Fund and the income derived therefrom paid for all time to the Board of Governors of the Thomas George Macarthy Trust for the relief of the indigent poor of the Parish of St. Stithians and of the City of Truro, Cornwall, the testator's birthplace. The administration of the estate is not sufficiently advanced to enable the exact amount available to be ascertained, but it is estimated that the sum which will eventually be administered by the Board of Governors under the trust created should be in the neighbourhood of £13,000.

It is probable that as the provisions of the Act become more widely known others will follow the example set by these testators. If this were done there would in time grow up a large sum available for the assistance of deserving objects, thereby enabling the exercise of an important and beneficial influence on the organization and conduct of charitable institutions throughout the Dominion and perhaps elsewhere.

*The Sarah Hurford Ames Trust.*—Another citizen who has made provision for charitable gifts of a permanent nature is the late Mrs. Sarah Hurford Ames. Testatrix has directed in her will that part of the annual income from her residuary estate is to be annually distributed to homes and other institutions in the city and suburbs of Wellington for poor and indigent children conducted by the Church of England, and the homes and other institutions for the care and welfare of aged or infirm persons of either sex by whomsoever conducted. The benefactress expressed a wish that the distribution of the annual income be arranged in such a way that it will reach the participating institutions during the first fortnight in the month of December, to the intent that the inmates will be enabled to enjoy the benefit of it at Christmas-time. During the past year nearly £100 was allocated amongst eligible institutions. This is not a true indication of the benefits which will be derived from the trust created by Mrs. Ames, seeing that only a portion of the year's income was available last year, and, moreover, realization of certain assets had to be effected to render them revenue-producing to a larger extent. A considerably larger amount should be available for the forthcoming year.

*Carterton Home for Aged Poor.*—The handsome bequest of the late Charles Rooking Carter, a resident of Carterton, has continued to be of benefit to aged poor people for the past thirty-four years. The late Mr. Carter died in 1896, and in terms of his will a valuable block of land, containing 2,166 acres, situated near Carterton, and a sum of £2,500 were to be set aside, and the rents and proceeds thereof applied in the erection, establishment, and maintenance of a suitable home for aged poor men in the Carterton district. In 1916 legislation was passed increasing the objects of testator's bounty by extending the area within which the applicants must reside, so as to include the whole of the Wairarapa Electorate as it existed in 1896. Provision was also made whereby the wives of eligible aged poor men could also be admitted to the home.

The whole of the administration of the estate outside the actual management of the home itself is controlled by the Public Trustee, who provides out of the income derived from the endowment the funds required for the running of the institution. 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, are responsible for the control of the home.



*The Renwick Cottages.*—These cottages have been under the control of the Public Trustee for nearly fifty years. They were erected in Nelson in 1883 for the use of deserving poor people of that city, in accordance with the instructions contained in the will of Miss Adeline Renwick. The cottages, situated in a pleasant locality, are built of brick, and stand in plots large enough to enable the occupants to have gardens if they so desire. There are sufficient funds at credit of the trust to provide for the maintenance of the cottages and to enable a small allowance to be made to inmates.

*British Mercantile Marine Pension Fund.*—These pensions are collected for such of the boys brought to New Zealand under the Flock House scheme as are entitled by reason of the death or disablement of their fathers or guardians while serving at sea during the war. The pensions arise out of service with the Royal Navy, the Admiralty, mercantile marine, fishing service, and the Canadian Government. The moneys received are held in trust for the lads until they attain the age of twenty-one, but the Public Trustee has power to utilize the funds in assisting them should they desire to commence farming on their own account at an earlier age. On the 30th September, 1929, the sum of £5,164 7s. 7d. was held in various proportions for 160 boys. Interest on the amount is credited by the Public Trustee at the maximum rate allowed by the Office regulations. Although the collection of the pensions entails a considerable amount of work and correspondence, the scheme for providing for dependants of members of the Royal Navy and mercantile marine who lost their lives in the service of the Empire during the Great War is such a meritorious one that the Office makes no charge for its services.

*New Zealand Sheepowners' Acknowledgment of Debt to the British Seamen Fund.*—In 1920 it was arranged that the Public Trustee should hold and invest the moneys contributed towards the fund. The objects of the fund render it necessary that it should be kept liquid in form, so as to provide for disbursement in accordance with the objects. Accordingly it was invested in the Common Fund, and interest is allowed by the Public Trustee on the daily balance. According to the articles of association of the fund, provision is made in the War Funds Act, 1915, for incorporation, and the appointment of a Board of Trustees and advisory committees. The making of grants and allowances for the relief of disabled sailors of the Royal Navy and mercantile marine and for the dependants of sailors who died as the result of war injuries is determined by the Board of Trustees. After crediting interest to the fund and deducting allowances made, at the 31st March, 1930, there remained in the Public Trustee's hands the sum of £38,986 19s. 3d. The amount paid out during the period 31st March, 1929, to 31st March, 1930, was £6,700.

#### EDUCATION RESERVES.

126. The Education Reserves Amendment Act, 1910, appointed the Public Trustee trustee of all funds which at that time were vested in School Commissioners, and of all mortgages and other investments administered by them.

The net annual income derived from the assets administered under the provisions of this Act is paid by the Public Trustee to the Education Department, which attends to the allocation of the money in accordance with the statutory provisions.

The assets under administration as at the 31st March, 1930, were as follows:—

	Primary Schools.			Secondary Schools.		
	£	s.	d.	£	s.	d.
Cash held in the Common Fund .. ..	20,257	15	1	796	4	2
Investments .. ..	1,600	0	0	Nil.		
	<hr/> £21,857 15 1 <hr/>			<hr/> £769 4 2 <hr/>		

#### DOCUMENTS IN ESTATES.

127. An executor or trustee should see that any documents relating to the estate or trust are preserved. The Office has had installed in all its Branches suitable fireproof strong-rooms providing for the convenient and safe custody of the countless valuable documents held by the Public Trustee on behalf of estates and clients.

## WILLS DEPOSITED.

128. It is not only the influx of new business that shows a consistent increase, but the number of wills appointing the Public Trustee executor and trustee year by year continues undiminished. During last year 6,893 wills were deposited. This constitutes a record, and is 840 in excess of the preceding year. The total number on deposit is now 68,253. The following table supplies the details of how this number is made up :—

Wills on hand on 31st March, 1929	..	..	..	62,841
Add new wills from 1st April, 1929, to 31st March, 1930	..	..	..	6,893
Deduct wills withdrawn from 1st April, 1929, to 31st March, 1930, through death of testator or otherwise	..	..	..	1,481
Net increase in number of wills on deposit	..	..	..	5,412
				<hr/>
Total number of wills on deposit on 31st March, 1930	..	..	..	68,253

The subjoined table sets forth the yearly increase in wills deposited for the past ten years :—

Number of wills on deposit on 31st March, 1920	..	25,792
Net increase for year ending—		
31st March, 1921	..	2,564
„ 1922	..	3,483
„ 1923	..	3,663
„ 1924	..	4,180
„ 1925	..	4,420
„ 1926	..	4,855
„ 1927	..	4,574
„ 1928	..	4,534
„ 1929	..	4,776
„ 1930	..	5,412
		<hr/>

Number of wills on deposit on 31st March, 1930	..	68,253
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Through changes of circumstances many testators find it necessary frequently to modify or vary the provisions of their wills, and in consequence a large amount of redrafting of wills already on deposit has to be undertaken. During the past year 3,864 wills were so redrafted. Thus the total number of wills prepared by the Office during the year, including both new wills and redrafts, reached the record figure of 10,757.

129. Despite the enormous increase in the number of wills executed in recent years, there are still many persons who fail to make a testamentary disposition. Some procrastinate in the hope of having clearer ideas later on; others either do not consider the matter at all, or, if they do, are entirely careless in regard to it, or are content to leave the future to take care of itself. Every one with dependants should see that adequate provision is made for them as far as circumstances will permit, and that by means of a properly drawn will provision is made to ensure the administration of the estate to the best advantage of the beneficiaries in accordance with their needs. A careful regard to this duty will safeguard one's dependants against considerable anxiety and inconvenience which might otherwise be inflicted upon them by intestacy. "No will" means that the estate must come under the operation of the law which has been designed to deal with the subject because of intestacy, but various difficulties prevent the enactment of a law to meet the peculiar needs and special circumstances of every case. The law cannot provide for all the different circumstances of several dependants being considered; indeed, all it can do is to act rigidly on specified degrees of kinship without any discrimination as to the varying needs of the several dependants. Moreover, intestacy does not provide for the conservation of an estate over an indefinite period in a manner calculated to the best advantage of the beneficiaries.

Then, again, we find persons who a number of years ago dutifully made a will, and, satisfied that a duty had been performed, have given no further thought to the matter. In the interval which elapsed since then probably many changes have taken place, and it may be that a direction to trustees that was perfectly good and sound at the time the will was made is totally inadequate to meet the altered conditions of the present time, and, indeed, as has been said, “in the vicissitudes of circumstances the document that has been executed may be worse than useless.”

130. One cannot stress too plainly the importance of a well-drafted will to ensure that the wishes of the testator are unmistakably expressed in the document and that proper provision is made for the administration of the estate. The law relating to the making and interpretation of wills is full of pitfalls, and when a will becomes operative the testator will not be here to explain what he meant. The legal construction of the language employed may be quite different from his wishes, and, in any case, ambiguous wording and other irregularities in wills drawn by inexperienced persons have often lead to costly litigation and much heart-burning. A frequent cause of trouble is the home-drawn will, especially where a printed form is employed. These forms have been repeatedly referred to by high judicial authorities as traps for the unwary, and are a never-ending source of litigation. Before making his will a testator should settle many important points. It is not possible or necessary to set out these at length, but a few may be cited by way of illustration: Are there sufficient assets realizable in the estate to provide for the payment of estate and succession duty, and testamentary expenses, and other liabilities? Is the estate likely to change in nature or value? What advancements have been made to the children? Is the business to be carried on; and, if so, for what period and under what conditions? How is the estate to be best legally conserved? What disposition should be made in favour of the next-of-kin, and how can the interests of the improvident and stand-easy members of the family be best provided for? All these and many other questions should be fully and carefully considered before the testamentary document is actually completed.

The legal officers of the Department to whom will-drafting is entrusted have had a long experience not only in the actual drafting of wills, but, what is equally important, in the administering of them after the death of the testator. Where the Public Trustee is appointed executor and trustee, officers will advise testators as to the drawing of their wills and prepare the document for signature free of charge.

I am satisfied that, of all the services rendered by the Office, there is none which proves more beneficial to the community than the drafting of wills. By means of this persons have an opportunity of having their wills prepared by a qualified man, and kept in safe and convenient custody.

131. A will is a highly confidential document, and its contents must be held inviolate during the lifetime of the testator. The contents of wills entrusted to the Public Trustee for safe-keeping are held in the strictest secrecy. Moreover, every employee of the Public Trust Office, every member of the Public Trust Office Board, and the Investment Board is required by the Office legislation to take an oath of fidelity and secrecy. Section 42 of the Public Trust Office Amendment Act, 1921, provides as follows:—

(1) Every member of the staff of the Public Trust Office, every agent of the Public Trustee, and every member of the Public Trust Office Board and of the Public Trust Office Investment Board—

(a) Shall maintain and aid in maintaining the secrecy of all matters coming to his knowledge appertaining to the business of the Public Trust Office or to the affairs of any estate under its administration or in relation to the affairs of any person concerned therein, except as may be authorized by law to a person directly interested and entitled to information or for the purpose of assisting to carry out the powers and functions of the Public Trustee and his own proper duties:

(b) Shall take and subscribe such oath of fidelity or declaration of fidelity and secrecy as may be prescribed, which oath or declaration may be administered by or taken before the Public Trustee, Assistant Public Trustee, or any District Public Trustee.

(2) Every person who wilfully acts in contravention of this section or of the true intent of such oath or declaration is liable on summary conviction before a Magistrate to imprisonment for any term not exceeding six months or to a fine not exceeding one hundred pounds.

## 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

Trustee is acting. During the year forty-five of these claims were made, of which thirty-seven were successful, one was abandoned as the result of further inquiry, and seven are still pending. There is also considerable legal work in connection with the apportionment by the Court of compensation moneys amongst the dependants of the deceased worker, where this has not already been done. Forty-seven applications for apportionment orders were made during the period under review.

135. It is not only on the common-law side that the volume of work has been heavy during the past year. It will be recognized what an important part in the work of the Office business conveyancing must necessarily play. The officers engaged upon this work are kept busily employed in the preparation, perusal, stamping, registration, or otherwise completing transfers, conveyances, leases, mortgages, deeds of family arrangement, and numerous other documents, often of a difficult and complicated nature. The conveyancing-work arises not only in the administration of estates, but in connection with the investment of moneys belonging to the Common Fund, Government Railway Superannuation Fund, Teachers' Superannuation Fund, and National Provident Fund. The investment side of the operations of the Department has now assumed such huge dimensions that the number of documents drafted and perused in connection with it is very large indeed. A number of important conveyancing problems came up for consideration during the year, and appropriate instructions and directions were issued for the general guidance of the staff where necessary.

136. It is inevitable and often very necessary in the conduct of the administration of estates under the control of the Public Trustee, and the transaction of other portions of his business, that he should be involved in a certain amount of litigation. In addition, his services are often availed of by the Court in cases in which he is not directly concerned, but in which he has been directed by the Court to represent infants, absentees, or other persons under disability. I am pleased to report that, as in previous years, the manner in which this duty has been discharged has given every satisfaction.

## MORTGAGE DIVISION.

### INVESTMENTS FROM COMMON FUND.

137. The decisive and sudden change which took place in the financial and economic position of the Dominion during the past year has had a marked effect on the operations of institutions, such as the Public Trust Office, which are charged with the duty of investing large sums of money on suitable securities on behalf of their clients. In the earlier part of the year funds were plentiful in many quarters, and the chief difficulty which faced investors with large sums to dispose of was the finding of suitable securities showing the requisite margin of value in sufficient numbers to absorb the whole of the available funds.

138. Previous reports furnished by the Public Trustee on the work of the Office have emphasized the fact that an overwhelming proportion of the funds in estates which are under administration by the Public Trustee are not invested separately, but, in accordance with the intention of the testators, fall into the Common Fund of the Office and go to swell the amount for which investments require to be found. As all these amounts bear the absolute guarantee of the State, it is essential that the greatest care should be exercised in the selection of investments in order that as far as possible a steady and uninterrupted flow of income may be received and the principal sums invested maintained intact and undiminished. Subject to these dominant principles, it is the duty of the Public Trustee to secure as high a rate of interest on his investments as is compatible with the provision of a safe and satisfactory security. It is well known that in the earlier part of the year now under review private investors of various classes were prepared to advance sums on the security of local-body debentures returning interest at  $5\frac{1}{4}$  or even  $5\frac{1}{8}$  per cent. It is obvious that at this rate of interest, even allowing for the excellent nature of the security, the Public Trustee would not have been able to maintain the present favourable rates of interest allowed to clients and beneficiaries from the Common Fund. These investments have been particularly attractive to private investors and trustees who do not possess the requisite facilities for the obtaining of satisfactory securities by way of mortgage on land or for maintaining a satisfactory supervision and control over such securities when obtained. Thus at a time when money was freely available

for investment in local-body debentures at the rates quoted above the field for the investment of moneys on real property—particularly on broad acres—has been left largely to the Public Trust Office and similar large investing institutions, with the result that the Office has been able to obtain investments in town and country properties of all classes with excellent margins of value and returning from  $\frac{3}{4}$  to  $\frac{7}{8}$  per cent. more than investments in local-body debentures.

Under these circumstances, although a portion of the available funds from the Office have been invested in debentures of various classes in accordance with the best investing practice, under which a certain portion of investments are held in a form permitting of ready realization if this course becomes necessary, by far the greater part of the Office funds has been invested in mortgage securities in town and country. The existence of the Dominion-wide organization of the Office has been a valuable factor in securing a satisfactory flow of eligible and desirable securities, and by far the greater part of the applications received have reached the Public Trustee through the medium of the Branch offices of the Department. At the same time, a certain number of the applications have been submitted by solicitors of standing throughout the Dominion, and in such cases it is the general practice of the Public Trustee (in the absence of any special reason to the contrary) to entrust the preparation of the mortgage documents to the solicitors introducing the loans.

139. Early in the New Year the position outlined above underwent a rapid and complete change, and the demand for first-mortgage money at reasonable rates of interest rapidly increased and showed a marked tendency to outrun the supply. The stringency is attributable to a number of factors, the cumulative effect of which has been considerable. Financial crises in the United States of America and a series of occurrences in London, together with the acute financial position in the neighbouring Commonwealth of Australia, have all had important repercussions on the financial position in this Dominion, which have been accentuated by the low prices obtainable for the Dominion's chief primary products in the past season. The raising of the overdraft rates by the associated banks operating in New Zealand was a significant indication to borrowers of all classes, of the changed condition of affairs. The position was soon reflected in the greatly increased demands made upon the Office funds, not only by way of new applications for loans, but also by way of applications for the increase of existing loans in cases where the security offered the necessary margin of value. A noticeable factor in these applications was the tendency on the part of farmers, business men, and others to replace their "on demand" liabilities to the banks and other financial institutions with long-term loans secured by mortgages of their land. Thus during the latter portion of the year under review no difficulty has been experienced in obtaining securities of an excellent class more than sufficient to absorb the whole of the available funds, and as a result the funds have been kept closely invested throughout the year. As the investments form the financial life-blood of the Office, and as upon their success depends the welfare and happiness of a large number of clients and beneficiaries, many of whom are not in affluent circumstances, the result of the year's working has been gratifying. At the same time the interests of the borrowers have been borne in mind, and the reasonable rate at which the moneys have been advanced and the very satisfactory terms on which loans have been arranged with the Office have served to make it widely and favourably known as one of the principal sources of financial assistance.

#### LOANS ON COUNTRY PROPERTIES.

140. In view of the substantial and somewhat protracted fall in the prices of practically all the primary products of the Dominion, it has been necessary to exercise a high standard of care in the granting of loans, and as the effect of the fall in prices on the value of farming-lands has not yet been fully determined it has been thought desirable to lean to the side of caution and in some cases to advance somewhat less than the full margin authorized by law.

Reference has been made in previous reports to the increasing tendency on the part of private investors and trustees to retire from the field of mortgage investments, particularly those on farm lands, leaving this type of investment largely to the various substantial lending institutions who possess the organization necessary to select such securities and to supervise and guard the investments when made. The granting of long-term mortgages on an instalment or amortization basis, which is meeting with increasing favour on the part of farmer borrowers,

is practically confined to such institutions, since the tying-up of the moneys for so long a period and the difficulty of finding suitable investments for the small instalments of principal as they fall due and are paid make the system quite inapplicable to the circumstances of the ordinary trustee or investor. The adoption of the long-term system by borrowers must have a valuable effect on the position of the farming industry, not only in the saving of the recurring costs of renewal as under the short-term system, and the inducement to the frugal farmer to reduce his principal liabilities out of income over a long period, but also in the tendency of the system to assist in the stabilization of the value of land on a reasonable basis. Farmers who adopt the long-term system when deciding on the purchase of land are inclined to fix the price at an amount which will permit not only of their meeting the interest on the purchase price, but also of their liquidating the indebtedness over a period of years by easy instalments of principal out of the annual produce of the farm.

#### LOANS ON BUSINESS BLOCKS.

141. Though somewhat detailed reference has been made to the lending of moneys on farming-lands by the Public Trustee, it must not be understood that the investments of the Office are confined to this type of security. As in previous years, the Office has endeavoured to meet the needs of all classes of borrowers on real property. Sums have been made available for the erection, acquisition, or refinancing of business blocks in the main towns and cities of the Dominion. The provision of modern buildings for the conduct of business in our cities on the most efficient lines, eliminating unhygienic and inefficient conditions under which office-work has often been carried on in the past, is important in assisting to ensure the welfare and prosperity of the Dominion. As I have shown elsewhere, the position in this regard has, however, called for careful consideration owing to the fact that rapid expansion has led to temporary overbuilding in certain cities and towns, and has resulted in a surplusage of office accommodation. In some cases this is shown by difficulty in letting portions of new buildings, but the chief effect has been in creating vacancies in the older types of buildings, with a consequent tendency for rents to decline. In no case, however, has the Public Trustee been caused any anxiety in connection with his investments. Where moneys have been advanced for the erection of new buildings the selection of the securities has been carefully made, and conservative amounts have been advanced, whilst in the case of the older types of buildings the loans have usually been in existence for a considerable time and have already been substantially reduced under the amortization system.

#### LOANS ON RESIDENTIAL PROPERTIES.

142. The third principal type of loan made by the Office is that for the erection or acquisition of residential properties in the main cities and towns. In this regard also I have already made reference to the tendency to overbuild in certain centres. The position has, however, been carefully watched, and as any loans made are based on a reasonable margin of a conservative valuation, and practically the whole of the loans are under the amortization system, no cause for anxiety of any kind exists.

#### DIVERSIFIED INVESTMENTS.

143. It will thus be seen that the Office holds a diversified series of investments in town and country which not only provide a good return for those entitled to the proceeds, but also serve to advance the interests and welfare of all classes of the population.

#### VOLUME OF INVESTMENTS.

144. The extent to which the investment business of the Office has grown is revealed by the fact that during the past year new loans to the value of £3,157,698 were granted by the Public Trust Office Investment Board from the Common Fund, whilst a further sum of £1,058,892 was invested by the Board on behalf of the various superannuation funds, the National Provident Fund, and other funds and estates the moneys of which are specially invested. Existing loans were renewed during the year to the value of £2,075,065. In addition to the granting of new loans and renewals, the Investment Board dealt with many incidental matters during the year, such as partial releases of securities, consent to leases and easements, and similar matters. The Board met on forty-eight occasions throughout the year. One matter

which calls for note in connection with applications for renewal is the fact that in certain cases, owing to the reduction of the valuations as a result of the general deflationary tendency which is now operating, the revised figures do not show quite the requisite statutory three-fifths margin for the renewal of the full amount of the mortgage. Thus in some cases, although the reports show that the properties are well farmed and have perhaps improved since the original loan was granted, a renewal cannot be granted unless the mortgage is reduced by the mortgagor. It would be of great benefit and save considerable hardship if the Board were given a statutory discretion in suitable cases to grant a renewal notwithstanding that the latest valuation showed a slightly reduced margin, provided that the reports showed that the management and maintenance of the property were entirely satisfactory, and that the position had been created purely as a result of a general decline in values and was not due to any deterioration of the property. Such a power would, of course, be exercised conservatively by the Board, and would not confer any rights on mortgagors to secure a renewal under such circumstances. As the law stands at present, the mortgagor must in every case find the necessary reduction to enable the renewal to be effected, and where this cannot be done at once it is the practice of the Board to allow the mortgage to run on as overdue on condition that the outstanding principal is reduced by suitable amounts each year until it is brought within the margin of the latest valuation.

As at the 31st March last the investments of the Common Fund and allied funds under administration amounted to the very substantial total of £33,764,342. It will be readily realized that the control, supervision, and management of this large volume of investments imposes an important responsibility upon the Public Trustee and his staff.

#### DECENTRALIZATION OF INVESTMENT WORK.

145. Following the raising of the Hastings and Waipukurau offices to the status of District Public Trustee offices, the necessary arrangements were made for the transfer of the Common Fund and Special Fund securities and accounts relating to those districts to the District Public Trustees. The transfers were effected without inconvenience to the mortgagors.

A period of three years has now elapsed since the decentralization of the investment work throughout the Dominion was first effected. For many years previously the accounting work and a large portion of the administration work relating to the administration of estates by the Public Trustee had been delegated to district officers, with good results, but considerable doubt had been felt whether the system of delegation could usefully be extended to the investment work of the Office. In 1927 delegation of the mortgage accounts and certain portions of the administration work to the Christchurch office was effected by way of trial, and the result was sufficiently favourable to warrant the extension of the system to the other district offices. The delegation was completed in 1928, and the resulting experience has been such as to justify the statement that the system has proved an undoubted success, bringing, as it does, the district officers in closer and more effective contact with the work. Under the system the accounts and subsidiary records are held at the district offices, together with the mortgage-deeds and documents of title, and it has been found possible to have a large number of the Board papers which are required for the Investment Board prepared in the districts. Reference to the mortgage-deeds when information is required locally, and the production of documents of title for the registration of subsequent dealings, has also been greatly facilitated, whilst special arrangements have been made to ensure that the decision of the Investment Board or of the Public Trustee on matters of policy is promptly obtained. As a result of the delegation the district officers have been enabled to exercise a closer and more intelligent supervision over the various securities in their respective districts.

It should be added that all investments in local-body debentures are controlled from the Head Office, and that with regard to the mortgage investments generally, all questions relating to the entertaining of applications and the granting or renewal of loans are reserved for the decision of the Public Trustee or the Investment Board, as the case may be.

As a corollary to the delegation of the investment work, a system of close periodical inspection of the work on both the accounting and administration sides, including the receipt and custody of deeds, is carried out by the Reviewing Inspectors. Visits of officers from the Head Office to the district offices from time to time also serve to co-ordinate the work.



## COLLECTION OF INTEREST.

146. Needless to say, the interest earned on investments for the year just closed reached a very considerable total. Interest on local-body debentures is collected by the Head Office, but the primary responsibility for the collection of all mortgage interest rests primarily with the District Public Trustees, who are required, however, to report to Head Office all amounts in arrear after a certain period, and also to submit for approval applications by mortgagors for extensions of time in which to pay their interest. Though the interest due has not come to account quite so readily as in the previous year, when conditions, especially for the farming community were much more favourable, yet the collection has received good attention, and the result has been satisfactory. In appropriate cases, where good cause could be shown, temporary extensions of time for payment of interest have been granted to farmers on reasonable terms to permit of their liquidating the indebtedness from the proceeds of their season's produce.

## SUPERVISION OF SECURITIES.

147. In the supervision of country properties mortgaged to the Public Trustee the District Public Trustees have the assistance of the staff of Farm Inspectors, whose knowledge of farming conditions and problems is of great benefit. Where country properties are mortgaged under the long-term system periodical inspections are carried out, usually at five-yearly intervals, by the Farm Inspectors, to ensure that the properties are being efficiently farmed and adequately maintained. In special cases inspections are carried out at shorter intervals. In the comparatively few cases where the Public Trustee has been compelled to enter into possession of a mortgaged property, or to acquire it by sale through the Registrar of the Supreme Court, it has generally been possible to dispose of the property subsequently either by sale or by lease. The number of instances in which the Public Trustee has been compelled to farm the property through inability to dispose of it is very small, and in those cases the properties are worked by competent managers under the control of the District Public Trustee concerned and with the supervision of one or other of the Farm Inspectors.

## REPAYMENT OF MORTGAGES PRIOR TO MATURITY.

148. In the earlier months of the past year, when moneys for investment were everywhere plentiful, a considerable number of mortgagors made application to the Public Trustee to accept repayment of their mortgages prior to maturity date, these requests being occasioned not so much by the possibility of obtaining loans at a lower rate than that charged by the Office—viz., 6 per cent.—but because in certain cases mortgagors were able to obtain larger advances from outside the Office, thus enabling them to reduce subsequent encumbrances, often bearing high rates of interest. Each application was treated on its merits in the light of the existing financial position, and where it was shown that hardship would result from refusal to accept repayment arrangements were generally made to take the moneys back on payment of premium interest for a period conditioned by the state of the Office funds at the time. To meet the needs of those applicants who at the time of taking up the loan desired a definite right of interim repayment to be embodied in the mortgage-deed, it has been decided to grant such a right provided that the mortgagor covenants to pay an additional  $\frac{1}{2}$  per cent. above the interest-rate then current. It is of interest to record that a number of mortgagors have already availed themselves of this arrangement.

## LEGAL CHARGES FOR MORTGAGE WORK.

149. I have also made reference earlier in the report to the fact that during the year amending regulations were issued under the Public Trust Office Act, 1908, prescribing a new scale of charges for the preparation, release, renewal, extension, or rearrangement of Common Fund, Special Fund, or estate mortgages. As I have indicated, in fixing the new scale the principle has been adopted of lessening as much as possible the expense incurred in raising loans by borrowers in moderate circumstances. Thus the maximum reduction affects loans up to £100, a slightly smaller reduction is conferred on borrowers of amounts over £100 and up to £500, and the reduction lessens by successive steps on loans over £500 and up to £1,000 and on loans over £1,000 and up to £2,000. The former scale

of charges on loans over £2,000 remains unchanged, but all borrowers from the Common Fund receive the benefit of a substantial reduction in fees for the legal work performed by the Public Trust Office in connection with securities for loans from the Public Trustee.

#### LOANS TO LOCAL BODIES.

150. The Local Government Loans Board Act, 1926, came into force as from the 1st April, 1927, and since that date every local body before raising any loan must obtain the sanction of the Local Government Loans Board, which was constituted by this Act. The main purpose of setting up such a Board was to prevent undue borrowing by local authorities, and the resulting increase in rates.

The Board before sanctioning the raising of a loan makes a searching investigation of all matters affecting the proposed loan, and also of the resulting benefit to the local body concerned. It also decides the term of the loan, the rate of interest at which the money may be borrowed, and also the amount of sinking fund which should be paid. These conditions are set out in the Order in Council sanctioning the raising of the loan, and must be adhered to by both the lender and also the borrowing local body, unless further sanction of the Board is obtained for a variation of the terms. The terms will be varied only in special circumstances—as, for instance, where the local body concerned satisfies the Board that every effort has been made to raise the loan at the rate of interest sanctioned, but that the money cannot be borrowed at the rate specified in the Order in Council. The Local Government Loans Board invariably stipulates that no payment of interest or sinking fund is to be made out of loan-moneys.

It has been the policy of the Board to keep the rate of interest as low as possible, and the effect on the business of the Public Trust Office has been the noticeable decline in applications for loans, as the rate of interest sanctioned by the Local Government Loans Board has in most cases precluded the Public Trustee, in view of his obligations to his clients and beneficiaries, from investing the funds under his control in these securities.

Better results have been achieved by lending the available funds on mortgage of lands at a higher rate of interest. Notwithstanding this fact, a fair amount of money has again been made available to local bodies of various kinds, whilst the investments of this nature held by the Office reach, in total, a very large sum.

#### TONGARIRO NATIONAL PARK BOARD.

151. The report for the year ended 31st March, 1929, mentioned that, in terms of section 36 of the Finance Act, 1928, the Public Trustee had granted a loan to the Tongariro National Park Board of the sum of £40,000, in order to enable the Board to take advantage of the authority conferred on it by the section to make an advance to the company which has been granted a lease of a portion of the National Park, for the purpose of erecting a hostel and other facilities there. This loan is guaranteed by the Government of New Zealand under the section quoted.

Section 45 of the Finance Act, 1929, amended section 36 of the Finance Act, 1928, so as to increase the respective amounts authorized to be advanced by the Public Trustee to the Board, and by the Board to the company, to £60,000, the guarantee of the Government to extend to the additional sum which the Public Trustee is authorized to advance. The full sum of £60,000 has now been made available by the Public Trustee to the Tongariro National Park Board.

#### CONSENTS TO LEASES OF MORTGAGE SECURITIES.

152. Application is frequently made to the Public Trustee for his consent as mortgagee to leases of lands or buildings which are subject to mortgages securing advances from the Common Fund of the Office. In common with other mortgagees, the Public Trustee is not under any legal obligation to consent to leases by mortgagors, and a refusal on his part to give his consent to any such lease does not, of course, affect its validity as between the mortgagor and the lessee. If the Public Trustee gives his consent, however, his security is affected to the extent that if the mortgagor makes default under the mortgage the property cannot be sold without the sale being made subject to the lease; nor can the property be leased under any power to lease conferred by the mortgage-deed while the lease to which the Public Trustee has consented still subsists. In accordance, however, with the practice and desire of the Public Trustee to facilitate the business of mortgagors,

provided this may be done without risk to the mortgage, consents to leases of mortgaged properties have been given in the past after careful investigation has been made in order to ensure that the leases do not contain provisions which might hamper the Public Trustee should it be necessary subsequently to take steps to realize the security.

When the system of decentralization of the Common Fund mortgage work was put into effect some years ago it was considered advisable that the power of consenting to leases should be reserved to the Public Trustee in person. It has now been decided to delegate to District Public Trustees the power and responsibility of granting such consents, unless the leases contain provisions which make it desirable that the question of granting consent should be referred to the Public Trustee.

In order to safeguard the Public Trustee against consents being given to leases which contain provisions detrimental to his interests as mortgagee, all District Public Trustees have been provided with special instructions, which set out the legal position of a mortgagee with regard to leases entered into by the mortgagor and lay down the conditions under which consent may be given to such leases.

### RURAL INTERMEDIATE CREDIT.

153. Under the provisions of the Rural Intermediate Credit Act, 1927, the Public Trustee and his Office assumed important duties relating to the administration of the intermediate credit system.

The purpose of the Act was to provide credit facilities for farmers, on the security mainly of their farming chattels—live-stock, farm machinery, produce, and the like—for periods not exceeding five years, at the most favourable rates of interest. The initial funds for investment on the securities authorized by the Act were provided by an advance from the Consolidated Fund of the sum of £400,000 on loan for a period of not less than twenty years, free of interest for the first ten years. Of this advance, one-third is set aside as a redemption fund, which is invested in Government securities, and, with the resulting income, is not available for any purpose other than the redemption of debentures issued by the Board. The remaining two-thirds is employed by the Board in its lending business. The main and permanent source of the Board's funds is from the issue to the investing public of debentures secured upon the Board's assets, which are in effect given priority over the right of the Crown to receive repayment of the advance from the Consolidated Fund. Advances may be made by the Board in four ways—

- (a) To farmers as members of co-operative rural intermediate credit associations (Part II of the Act) :
- (b) To farmers direct without the intervention of such associations, the loans being collaterally secured by approved guarantees (Part III of the Act) :
- (c) To farmers' co-operative organizations (Part IV of the Act) :
- (d) By the discounting of farmers' promissory notes or bills of exchange suitably indorsed (section 15 of the Act and para. 46 of the regulations issued under the Act on the 21st December, 1927).

The maximum advance which a farmer may receive from the Board by one or more of the above methods is £2,000, the original limit of £1,000 having been extended by an amending Act passed in the 1929 session. Advances by the discounting method referred to in (d) are limited by the Board to £200.

154. The administration of the system is controlled by a Board consisting of eight members, of which the Public Trustee is, *ex officio*, the principal executive member and as such is styled "The Commissioner of Rural Intermediate Credit."

155. Under the authority contained in the legislation for the Board to employ the services of any Department of State in carrying on its business, the Office has acted in the capacity of agent for the Board since the inception of the scheme. Considerable advantages have accrued to the Board from the utilization of the extensive organization and the representation of the Office throughout the Dominion. The Office acts simply as agent for the Board, and it has no responsibility for or control over the operations of the Board, and every care is taken to see that no misunderstanding arises as to the exact relations of the Office with the Board.

The principal executive officers of the Board in Wellington have been selected from among the senior officers of the Public Trust Office. In addition, the District Public Trustees act as local representatives of the Board, under the designation of "District Intermediate Credit Supervisors," those District Supervisors stationed at the headquarters of the districts which have been defined by the Board for the local administration of the system acting as Chairman of the District Boards, to which the central Board has delegated extensive powers of dealing locally with loan matters. In these capacities the District Supervisors bring to the Board the benefit of the knowledge of local conditions and the contact with the farming community which they have gained in the various phases of their Public Trust Office duties. Besides the duties already mentioned, each District Supervisor is, *ex officio*, a director of every co-operative rural intermediate credit association established in his district. In cases where, owing to the distance at which the headquarters of an association is situated from the District Supervisor's office, it is not practicable for the District Supervisor to attend each meeting of the directors, it is frequently possible to arrange for the local District Manager of the Public Trust Office to attend as his deputy. As a result of the expansion of the Board's business under all headings of advances to farmers a considerable amount of additional work has been imposed on the staff of the Office, which has been willingly performed by the officers concerned.

156. In the last annual report it was stated that progress had been made by the Board particularly in those districts where dairy-farming was the main form of farming activity. This result was contributed to by three causes. In the first place, the limit of £1,000 fixed by the Rural Intermediate Credit Act, 1927, while sufficient for the needs of the majority of dairy-farmers in regard to the class of accommodation provided by the Board, was not, as a rule, adequate for the requirements of sheep-farmers. Secondly, dairy-farmers had received considerable assistance from the dairy factories which they were supplying, in regard to the submission of their applications, particularly by the giving of the guarantee required to support direct applications under the provisions of Part III of the Act, thus facilitating the submission of applications in districts where associations had not been formed, although the activities of the dairy companies were not confined exclusively to such districts. Sheep-farmers and grain-growers, on the other hand, did not have the same facilities for obtaining guarantees. Lastly, the system of a loan of a fixed amount, to be liquidated over a period of years, was not quite suited to the financial needs of these farmers.

Contemporaneously with the extension during the 1929 session of the limit for loans to £2,000, the Board introduced a system for "limits," much upon the lines of an overdraft system, designed to meet the special requirements of sheep-farmers and grain-growers. As a result of these developments, interest upon the part of the farmers concerned has been considerably stimulated, and additional associations have been set up in districts predominantly devoted to sheep-farming and grain-growing, or in which mixed farming is carried on, in order to facilitate the submission of applications, and a steady increase has been recorded in the business transacted with these classes of farmers. At present thirty-five co-operative rural intermediate credit associations have been formed, and additional associations are in course of establishment, the new associations including as well additional associations set up in what are exclusively dairy-farming districts. The business transacted with dairy-farmers has shown continued expansion both in regard to loans granted through the existing associations and the associations recently established, and in the business transacted upon the guarantees of co-operative dairy companies, all these classes of loans affording a practical demonstration of the application of the co-operative principle to rural finance. The discounting method has also enjoyed continued popularity with dairy companies for the purpose of providing small loans for the seasonal requirements of their suppliers.

157. A satisfactory feature of the Board's operations has been the excellent manner in which payments of interest and the prescribed repayments of principal in regard to all classes of loans have been received, arrears of payments having been reported in only a very few cases. This result is largely attributable to the careful supervision which has been maintained over the loan accounts.

158. The operations of the Board up to the 30th June, 1930, will form the subject of a separate report which will be presented to Parliament this session, in accordance with the provisions of section 76 of the Rural Intermediate Credit Act,

1927. It should be added that great care has been taken to see that the undertaking of these important duties by the Public Trust Office is not allowed to impair or lower in any way the standard of service hitherto enjoyed by clients and beneficiaries of the Public Trustee. Special steps have been taken to provide additional staff to cope with the increased duties imposed, and it can confidently be stated that the interests of the clients and beneficiaries of the Public Trust Office have not suffered in any way through the undertaking of the duties by the Public Trustee on behalf of the Rural Intermediate Credit Board.

### INSPECTIONS.

159. When dealing with the organization of the Office I made reference to the supervision exercised over the work delegated to the branches. When the establishment of self-contained branches throughout the country to conduct the actual work of administration was inaugurated it was necessary to provide also for inspection and review of the work of these branches. This system of inspection forms a most important part of the internal check of the Office, which in dealing with estates and funds valued at over £53,000,000, and investments totalling over £33,000,000, must be strict and effective. The system which has been in operation for some years past has proved itself adequate, and has been maintained without alteration or modification throughout the year.

The inspections are conducted by a staff of officers conversant with and experienced in all phases of the work of the Department, and ensure that the internal regulations are conformed to, that a high standard of work is maintained, and at the same time keep the Head Office in close touch with the branch work and with conditions throughout New Zealand. During the year the system of inspection and review was extended to cover the rural intermediate credit work, in regard to which the Office acts in the capacity of agent for the Rural Intermediate Credit Board throughout the Dominion.

The system of review and inspection is classified as follows:—

- (a) General inspections, covering the internal working and machinery of the Office :
- (b) Review of administration of estates, funds, and investments :
- (c) Internal audit and inspection of accounting work and systems.

160. *General Inspections.*—These inspections have been regularly carried out during the year, and the permanent branches of the Office have been visited in rotation. The inspections are directed towards the general working of the Office, and all internal arrangements, covering management, control, organization, staffing, and accommodation receive consideration. The work of all officers is investigated, and a study made of their capacity and suitability for the work upon which they are engaged. During the visit of the inspecting officers opportunity is taken by the district officers of discussing major problems arising in the course of the work, and the experience and advice of the inspecting officers are of value to them in the conduct of such matters. The Inspectors form a connecting-link between the Head Office and the branches, and the inspections do a great deal towards facilitating the working between them.

Inspections are made of all offices as the volume of the work and any special circumstances render necessary. During the year fifteen of the twenty-one District Public Trustee offices and eight of the eleven District Manager offices were inspected, either by the Chief Inspector or by his assistant, and all necessary action arising out of these inspections has been taken. I have already pointed out that in the smaller towns of importance the Office has agencies conducted on a commission basis by local business men. These agencies are under the control of the District Public Trustees in whose districts they are situated, and, apart from visits from responsible officers from Head Office as occasion requires, the controlling District Public Trustees periodically inspect and report to the Public Trustee on the conduct of the work of the agencies.

161. *Review of Administration of Estates and Investment Work.*—Upon adoption of the policy of decentralization there was put into operation a system whereby the administration of all estates and funds was subjected to searching review by officers experienced in both administration and accounting work. Since the extension to the investment work also of the policy of decentralization the conduct of this side of the Office business has been brought under the scrutiny of the Reviewing

**Inspectors.** These Inspectors conduct their work entirely independently of the District Public Trustees dealing with the administration of the estates and funds concerned, and make their reports to the Public Trustee. The management and realization of estate assets, the conduct of the administration of estates, funds, and investments are reviewed and reported on. All active matters come before the Inspectors in the course of their visits, and their suggestions and constructive criticisms are of value to those officers dealing with the administration. During the year the papers and records relating to 11,420 estates, funds, and investments were surveyed, and 340 formal reports and reviews on the larger and more complicated estates and funds were made.

With this large volume of work the time of the Inspectors is taxed to the utmost, and during the year it has been found necessary to appoint an additional Inspector, and also to attach an assistant to each of the Inspectors handling the work in the Auckland and Wellington Districts, in order that these Inspectors might be freed from the scrutiny of matters of mere routine and have more time to devote to those of the more difficult matters demanding their attention. The reviewing staff is sufficient for present requirements, and all branches can be visited as frequently as the work requires.

162. *Internal Audit.*—Adequate internal check and safeguards are essential for the conduct of the Office business. A proper system of internal check will to a great extent obviate the necessity of a detailed audit of the subsidiary accounting records at least, and will ensure that any irregularities that might occur are detected at once. The check in operation is effective, and that all its requirements are observed is ensured by the internal audit which is in operation.

To be effective, the audit of the Office transactions must be performed by officers familiar with its business and methods and internal regulations. In addition, a comprehensive knowledge of trustee and Office accounts is essential. The Office has, therefore, its own staff of Audit Inspectors, who are experienced both in regard to the administration and the accounting sides of the work, and who are thoroughly familiar with all internal regulations and systems. The conduct of the audit is facilitated by the co-operation of the departmental checking officers and the officers of the Audit Department. During the year the audit at both the Head Office and the branches has been closely maintained. Daily checks of the cash transactions at all branches are made by responsible officers, and certificates covering the cash system, the handling of securities, the posting of ledgers, and other subsidiary registers are forwarded to the Controller and Auditor-General at regular intervals. Further, independent check of these matters is made immediately on arrival of any of the inspecting or auditing staff at a branch office, and reconciliations of cash and bank are completed. A continuous audit is maintained at the Head Office and at the four largest centres—Auckland, Wellington, Christchurch, and Dunedin—by officers of the Audit Department, and at the remaining branches this Department conducts an audit at approximately half-yearly intervals.

As regards the accounting-work generally, comprehensive inspections are made of all offices at approximately yearly intervals. The inspections ensure that the Office regulations for the conduct of the work are being observed, that uniform practices are maintained at the branches, and that full and complete accounts are promptly drawn and rendered to beneficiaries and other interested parties. The majority of these inspections are conducted by the Chief Auditor, but at several of the smaller branches the work is undertaken by the Chief Inspector or the Assistant Chief Inspector simultaneously with their conduct of a general inspection, in order to minimize travelling-expenses.

Negotiable securities and jewellery held on behalf of estates are checked at each branch at half-yearly intervals by a responsible officer. At all those branches where the accounting-work has been inspected by the Chief Inspector or Chief Auditor during the year, a further check has been made of the securities and jewellery, and the system laid down for their receipt, custody, and disposal is carefully inspected. A detailed check of all effects held is also made. The Common Fund mortgage securities, held at the branches under two keys, are checked annually by senior accounting officers, and also by the Inspectors of the Audit Department. Whenever convenient, the two checks are made simultaneously. The remaining securities for investments of the Common Fund, consisting of Government debentures, local-body debentures, fixed-deposit receipts, &c., are held at the Head Office under three keys, and have been checked by an Inspector of the Audit Department. All Common Fund securities at the branches as well as at Head Office have been found to be in complete order.

The audits and inspections and the reports received from the Audit Department show that the system devised for the custody of cash and securities has been carefully

observed, and that all estate valuables and Common Fund mortgage securities are in order and are under proper protection, and that the accounting-work generally and the administration of estates is well up to date.

#### ENEMY PROPERTY IN NEW ZEALAND AND CLEARING-OFFICE OPERATIONS IN REGARD TO ENEMY DEBTS.

163. When the Treaties of Peace were being framed it was realized that it was of vital importance to the nationals of the Allied and Associated Powers that provision be made for the settlement of their claims against ex-enemy nationals or Governments in regard to pre-war debts and to property lost through the war. Accordingly it was provided that—

- (a) Allied nationals were entitled to the immediate and complete restitution of their property and interests in ex-enemy territory.
- (b) The ex-enemy Governments were made responsible—
  - (1) For the restitution of all the property and interests belonging to Allied nationals and for the preservation of such property and interests until restitution;
  - (2) For payment of compensation to Allied nationals for damage or injury inflicted on their property and interests; and
  - (3) For payment in full, at the pre-war rate of exchange, of pre-war debts recoverable through the Clearing Offices, and owing by ex-enemy nationals residing in ex-enemy territories to British nationals residing in British territory, if such ex-enemy nationals were solvent at the time of the outbreak of the war.
- (c) Each Allied Power was authorized to create a charge on the property and interests belonging to ex-enemy nationals within its territory to secure the sums claimed by its nationals in respect of—
  - (1) The property and interests of its nationals in ex-enemy territory;
  - (2) The debts owing to its nationals by ex-enemy nationals; and
  - (3) Damage or injury inflicted on the property and interests of its nationals.

The treaties provided for the establishment of Clearing Offices to deal with these matters.

164. Enemy property in New Zealand was liquidated in terms of the War Regulations which were brought into force during the war, and the Treaty of Peace Order, 1920. The duties in regard to the liquidation of enemy property and the control of the New Zealand Clearing Office were entrusted to the Public Trustee. They comprise briefly—

- (a) The settlement, through the clearing procedure provided for by the Treaty of Versailles, of claims in regard to pre-war debts and to New-Zealand-owned property in Germany;
- (b) The control, liquidation, and disposal of the proceeds (by credit to the liquidation account of the ex-enemy countries concerned, or by release in appropriate cases) of property or businesses owned by alien enemies or in which there were alien enemy interests.

Steady progress has been made during the year towards the completion of the various duties imposed on the Public Trustee. The only development worthy of note is the agreement recently negotiated regarding unliquidated property, which is referred to later. The work in connection with the claims lodged through the clearing procedure set up under the Treaty of Peace with Germany has been carried almost to completion. Of claims totalling over £317,000, there is only one, amounting to £137 0s. 9d., now outstanding. This claim is contested, and has been referred by the claimant to the Anglo-German Mixed Arbitral Tribunal, the body set up under the Treaty to adjudicate upon disputed claims. The work in regard to the enemy property is not completed in all cases even when realization and credit to the liquidation account is effected. Claims for release on various grounds are lodged, and transactions apparently long concluded



are often reopened. Various matters arise for consideration which often concern points of Government policy, and even at this date the work involved is at times considerable. Speaking of this, the Controller of the Central Clearing Office, London, in his report for the year 1929 said,—

It would be rash to hazard an estimate of the time that may be occupied in completing the outstanding work. It is inevitable that in the closing stages of an administration of any magnitude there should be a residue of troublesome and difficult problems to be dealt with, and the closing stages of the present administration, which is the largest and most far-reaching administration that has ever been undertaken in this or in any other country, are hardly likely to be an exception.

#### REALIZATION AND DISPOSAL OF EX-ENEMY PROPERTY IN NEW ZEALAND.

165. The proceeds of ex-enemy property retained and liquidated under the Treaties of Peace are credited to the liquidation account of the country of which the owner is a national. Under the Treaties of Peace, the ex-enemy Governments undertake to compensate their nationals in regard to property so retained and liquidated.

For the year further credits totalling £219 6s. 11d. have been passed to the German Liquidation Account under Article 297 of the Treaty in respect of the proceeds of the realization of property, rights, and interests in New Zealand belonging to German nationals, and a small item has been reccredited. The total amount now credited to Germany is £266,731 18s. 8d. The great bulk of the German property in New Zealand which is subject to the charge imposed by the Treaty has now been realized, and the property now remaining which has been notified to the Custodian but not liquidated is valued at approximately £20,909. It is possible that as a result of an agreement recently negotiated between the New Zealand and the German Governments all property not yet liquid or liquidated or finally disposed of at the date of the agreement will be released to the German owners. Agreements similar to this have been entered into, it is understood, between the German Government and the other parts of the Empire and the Allied and Associated Powers. These agreements do not become operative until the final arrangements in regard to the Young Plan are concluded. In addition, cash amounting to £18,425 is held subject to the determination of contingencies.

166. An application has been received for the release of an amount of approximately £12,000 credited to the German Liquidation Account. The applicant avers that he is a non-enemy subject, and had acquired by purchase, prior to the outbreak of war, the property liquidated. The claim has not been admitted, but the applicant has instructed local counsel regarding the matter, and possibly litigation will result. During the year claims which were being pressed before the Anglo-German Mixed Arbitral Tribunal, and which involved, amongst other moneys, a very substantial sum, being the proceeds of the realization of the assets in New Zealand of a company the shareholders in which were German nationals, were withdrawn, bringing the case to a conclusion satisfactory to the New Zealand Clearing Office.

167. In regard to the retention and liquidation of German property the remarks of the Chancellor of the Exchequer in the House of Commons on the 21st November last are illustrative. He said :—

I may explain that the German properties sequestered during the war were transferred to the creditor Governments as at the date of the entry into force of the Treaty—namely, 10th January, 1920. The German Government at the same time retained the proceeds of liquidation of property of Allied nationals in Germany and undertook to compensate its own nationals in respect of their properties liquidated abroad. The Treaty provided that the proceeds of liquidation realized by the creditor Governments might be applied to meet private claims of their nationals on account of debts, property losses, and compensation awards due by Germany, and that, thereafter, any surplus might be retained by the creditor Governments on account of their reparation claims. After the German Schedule of Payments was fixed in 1921, the Reparation Commission decided, and duly informed the German Government, that any surplus proceeds so retained would be credited to Germany on account of the capital reparation debt, and not on account of the current annuities. The liquidation of these properties was taken into account by the Second Experts' Committee appointed in 1924, and the German annuities fixed both in the Dawes Plan and in the Young Plan were based on the capacity of Germany to pay, on the assumption that these properties were definitely lost to Germany.

168. The amount credited to the Austrian Liquidation Account in terms of Article 249 of the Treaty of St. Germaine-en-Laye is £1,728 15s. 3d. An amount of £66 16s. 3d. has been withdrawn with the concurrence of the Austrian authorities, leaving a net credit to the Liquidation Account of £1,661 19s.



AMALGAMATION OF ACCOUNTS UNDER ARTICLES 296 AND 297 OF THE  
TREATY OF VERSAILLES.

169. The Treaty of Versailles required Germany to effect cash settlement of any balance owing by her under the clearing system in regard to claims under Article 296. In September, 1922, however, Germany made default in the payments in respect of the Clearing Office operations, and since that time no further payments have been made, with the exception of some small amounts received in 1924. In consequence of the Dawes Report and the Spa Agreement, it became clear that no further payments could be expected from Germany under Article 296 of the Treaty. In terms of this report and agreement comprehensive annuities to cover all claims under the Treaty, including the Clearing Office balances, were collected from Germany. The Allied Governments all held considerable funds resulting from the liquidation of German property, rights, and interests in their territories, and it was apparent that the Reparations Committee would not consent, whilst the proceeds of German property were available in sufficient amounts to meet the Clearing Office obligations, to make, from the amounts paid to it by Germany, any payments on account of the balances owing under Article 296 of the Treaty. As a consequence an agreement regarding Clearing Office matters was negotiated between His Majesty's Government in Great Britain and the German Government, and was adopted by the New Zealand Government as at the 30th April, 1925, with some modifications not applicable to the matters dealt with in this report. One of the provisions of this agreement was for the amalgamation of the accounts under Articles 296 and 297 of the Treaty—that is, the amalgamation of the accounts relating to the claims under Article 296 of the Treaty with the accounts relating to the liquidation of German property mentioned in paragraph 165 above. The effect of this amalgamation is that balances due by Germany under Article 296 of the Treaty are set off against the net proceeds of the realization of German property. The General Liquidation Account with Germany, after giving effect to this amalgamation, is as follows :—

GENERAL LIQUIDATION ACCOUNT WITH GERMANY.

	£	s.	d.		£	s.	d.
Payments in respect of admissions and offers of compensation <i>re</i> claims under Article 297 .. .. .	21,495	18	5	Net proceeds of liquidation of German property rights and interests in New Zealand credited to Liquidation Account, less withdrawals therefrom .. .. .	266,731	18	8
Interest paid on awards of compensation under agreement of 1st May, 1925 .. .. .		4	6	German claims under Article 296 admitted by New Zealand Clearing Office during period 1st May, 1925, to 31st December, 1929 .. .. .	2,995	17	5
Balance due by Germany as at 30th April, 1925, in respect of Clearing Office transactions under Article 296 .. .. .	2,495	2	6	Cash paid by German Clearing Office during 1924 .. .. .	153	14	9
New Zealand claims under Article 296 admitted by German Clearing Office during period 1st May, 1925, to 31st December, 1929 .. .. .	3,001	7	1				
Balance in favour of Germany carried down .. .. .	242,884	16	9				
	<u>£269,881</u>	<u>10</u>	<u>10</u>		<u>£269,881</u>	<u>10</u>	<u>10</u>
				Balance in favour of Germany brought down .. .. .	£242,884	16	9

CLEARING OFFICE DUTIES : PROGRESS REGARDING THE DISPOSAL OF CLAIMS.

170. The claims received for settlement through the New Zealand Clearing Office to date are as follows :—

Claims under Article 296—

	Total.
	£      s.      d.
(a) Claims by New Zealand nationals against German nationals .. .. .	53,034    3    8
(b) Claims by German nationals against New Zealand nationals .. .. .	211,408   15   4

Claims under Article 297—

(c) Claims by New Zealand nationals against the German Government .. .. .	53,103    8    5
	<u>£317,546    7    5</u>

The following tables indicate the progress which has been made to date in connection with the disposal of claims:—

*(a) Claims by New Zealand Nationals against German Nationals under Article 296 of the Treaty.*

216 claims forwarded to the German Clearing Office through the Central Clearing Office .. .. .	£	s.	d.
		53,034	3 8
Claims wholly or partly acknowledged by the German firms and admitted by the German Clearing Office .. .. .	£	s.	d.
		22,431	3 5
Claims withdrawn in whole or in part in response to letters of contest forwarded to New Zealand on behalf of the alleged German debtors .. .. .		27,264	10 2
Claims finally rejected and deemed to be withdrawn .. .. .		3,338	10 1
		<u>£53,034</u>	<u>3 8</u>

N.B.—(1) In addition to the £22,431 3s. 5d. admitted by the German Clearing Office as above, interest thereon as provided in the Treaty of Versailles, amounting to £6,806 15s. 5d., has also been credited to the New Zealand Clearing Office. The amount admitted, less a deduction of 2½ per cent., being Clearing Office commission thereon, has been paid by this Office to the New Zealand claimants.

(2) It will be noted that the claims lodged under this heading have now been wholly disposed of.

*(b) Claims by German Nationals against New Zealand Nationals.*

1,479 claims received from the German Clearing Office through the Central Clearing Office .. .. .	£	s.	d.
		211,408	15 4
Claims transferred to Central Clearing Office as not applicable to New Zealand .. .. .	£	s.	d.
		1,164	5 2
Claims withdrawn in whole or in part by the German Clearing Office in response to letters of contest lodged on behalf of New Zealand firms, &c. .. .. .		169,380	7 7
Claims acknowledged in whole or in part by New Zealand firms and admitted to the German Clearing Office .. .. .		31,462	15 3
Claims finally rejected and deemed to be withdrawn .. .. .		9,264	6 7
		<u>211,271</u>	<u>14 7</u>
Balance, being one claim contested .. .. .		<u>£137</u>	<u>0 9</u>

N.B.—(1) In addition to the £31,462 15s. 3d. admitted as above, interest thereon in accordance with the provisions of the Treaty of Versailles, amounting to £11,301 13s. 10d., has also been credited to the German Clearing Office on account of German claims against New Zealand nationals.

(2) During the period claims totalling £75 6s. 3d. and interest, £41 1s. 6d., have been admitted to the German Clearing Office in accordance with replies received from the New Zealand debtors.

(3) During the period claims totalling £25 4s. 8d. have been withdrawn by the German Clearing Office.

(4) Further claims totalling £21 18s. 8d. were lodged for attention during the period.

(5) It will be seen that of claims totalling £211,408 15s. 4d. lodged for clearing one only, of £137 0s. 9d., is yet undisposed-of.

*(c) Claims by New Zealand Nationals against Germany under Article 297 of the Treaty of Versailles.*

21 claims forwarded to the German Clearing Office through the Central Clearing Office .. .. .	£	s.	d.
		53,114	10 2
Claims acknowledged in whole or in part by Germany and admitted to the New Zealand Clearing Office .. .. .	£	s.	d.
		18,264	17 3
Offers of compensation accepted and paid in full .. .. .		3,231	1 2
Claims withdrawn by New Zealand nationals in whole or in part .. .. .		31,618	11 9
		<u>£53,114</u>	<u>10 2</u>

N.B.—During the period further claims of £106 13s. 10d. were lodged for attention, and were admitted by the German Clearing Office. The whole of the claims lodged for settlement under this heading have now been disposed of.

### RELEASES.

171. The date fixed for the receipt of applications for compassionate releases has expired.

In certain cases where releases were granted before the expiry date payments are being made as funds become available for application in satisfaction of the releases.

Very considerable amounts have been released from the provisions of the War Regulations, Treaty of Peace Order, 1920, and the Treaty of Peace (Austria and Hungary) Order, 1924, by way of compassionate releases and on various other

grounds. The following statement shows the amounts which have been so released to the persons beneficially entitled thereto or to their authorized agents. These figures comprise only amounts which have actually been refunded by the Custodian; and do not include the value of properties in regard to which power to retain and liquidate has not been exercised (*e.g.*, assets belonging to internees or other ex-enemy nationals who have been permitted to remain in this Dominion, certain property belonging to the British-born wives of German nationals, &c.). Payments made in respect of claims established by New Zealand nationals are not included in this statement.

(1) Amounts belonging to persons or firms who have submitted satisfactory documentary evidence that they possessed prior to the outbreak of war, British, Allied, or neutral nationality, or were in a condition of statelessness	£	s.	d.
	16,838	8	8
During the war all persons resident in enemy-occupied territory, irrespective of their nationality, were regarded as enemies for the purpose of the War Regulations, and consequently all amounts payable to them during the war were required to be paid to the Custodian of Enemy Property. On the conclusion of peace the necessary steps were taken to release the amounts belonging to British, Allied, and neutral subjects, or persons without nationality.			
(2) Amounts belonging to persons of former enemy nationality who have acquired the nationality of an Allied or Associated Power under one of the principal Treaties of Peace, or were otherwise entitled under such treaties to the release of their property	6,730	19	9
These persons are entitled to the release of their property in accordance with the express terms of the various Treaties of Peace.			
(3) Amounts belonging to British-born subjects who lost their British nationality on marriage, and who subsequently to the coming into force of the Treaty of Peace have been renaturalized as British subjects	29,342	19	1
These moneys have been released in conformity with the policy of the Imperial authorities in connection with similar cases in the United Kingdom.			
(4) Amounts belonging to British-born wives of German nationals	16,346	5	2
(5) Proceeds of investments representing savings from earnings made in New Zealand by German nationals who were not at the outbreak of the war permanently resident in the Dominion and who are now in necessitous circumstances	3,028	3	9
(6) Compassionate releases upon grounds other than (3), (4), and (5) above	10,161	17	9
(7) Moneys belonging to aliens who were interned during the war, and/or who were repatriated from New Zealand at their own request or otherwise	40,254	15	5
(8) Moneys belonging to the German Church Trust at Christchurch, released in pursuance of an Order in Council dated 23rd April, 1923, made under section 54 of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1922	971	15	2
(9) Amounts transferred for disposal by the Commonwealth Clearing Office, the liquidator of the English branch of an enemy company, or in accordance with the Ex-enemy Absentee Property (Samoa) Order, 1923	1,171	1	0
(10) Amounts transferred to Consolidated Fund :—			
(a) Proceeds of realty acquired by a German subject which was forfeited and declared by the Supreme Court to be vested in the Public Trustee in trust for His Majesty the King under section 5 of the War Legislation Act, 1917	£	s.	d.
	520	4	5
(b) Sundry amounts where the legal or beneficial owners could not be traced	1,728	17	4
	2,249	1	9
(11) Miscellaneous releases	628	11	11
	£127,723	19	5

### CONCLUSION.

172. I feel that on the occasion of the annual report, in addition to dealing with the actual operations of the Office it is fitting to refer to those matters arising out of the work which its extensive experience has proved to be important to its clients or of general interest to the public. I have therefore endeavoured in this report, as in previous years, to set forth the salient features arising out of the year's operations, and to comment upon some matters that seem to me to be of special importance or general interest.

I recognize that the very name and nature of the Office imperatively demand that the service it renders should be of the highest character, and that the constant

aim of the executive should be to maintain this. During the past year it has not been found necessary to introduce any drastic changes in the organization, but much time and thought have been devoted to developing and perfecting that already in existence, and making minor improvements which experience has shown to be advisable.

Even in normal times the conduct of a constantly expanding Department such as this entails a great deal of concern and anxiety, but this is very much accentuated in a period of difficulty and depression. It is therefore a matter of satisfaction to report that the work for the past year has proceeded so smoothly and with such a marked absence of justifiable complaints from those who have had dealings with the Office.

It gives me great pleasure to place on record my appreciation of the loyal co-operation of the Assistant Public Trustees and the zeal and energy of the staff generally, and of the Agents of the Office throughout the Dominion, who have all worked so untiringly and whole-heartedly to render faithful service to the Department and its clients, and who have contributed in no small measure in achieving the present success. Cordial thanks are also due to the members of the Investment Board for the assistance given by them throughout the year in the considering of applications for loans from the Office funds.

I have, &c.,  
J. W. MACDONALD,  
Public Trustee.

The Hon. the Prime Minister.

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