

10. An outstanding feature of the Common Fund system is that capital moneys invested in it are always available when the time arrives for distribution ; in other words, the money is always liquid. This is of a special value to estates held for immediate distribution, where it would be impossible to find separate investments for the short periods the money is held pending completion of the administration. As it is, the money falls into the Common Fund and becomes interest-bearing. In such cases it frequently happens that the interest earned exceeds the actual charge for administering the estate.

In trust estates subject to life interests, this feature of investment in the Common Fund enables the Public Trustee to distribute the capital funds immediately the life interest terminates. An example of this advantage is afforded by a case of frequent occurrence. Where a testator by his will leaves the income of his estate to his widow during her life with a direction that his estate is to be distributed amongst his children on her death, if the capital of the estate were specially invested in mortgages or in other forms of trustee investments it would be necessary after the widow's death to wait until the mortgages were repaid or until the investments matured before the children could obtain their shares, or, in the alternative, to realize investments, possibly on an unfavourable market.

11. Whilst the Common Fund system is provided for those who wish to avail themselves of it, testators and others placing their affairs with the Public Trustee are not precluded from employing other forms of investment. If they so desire, they may direct that their funds be invested outside the Common Fund in ordinary trustee securities. If this is done, the actual investments belong to the estate. Every care is taken in investing the funds, but, of course, there is no State guarantee, and, subject to the Public Trustee's ordinary liability as a trustee, any loss falls on the estate.

Testators and others are entirely free to choose one or other of the modes of investment available, and it is their choice at the creation of a trust or at the inception of other similar transactions which determines the mode of investment to be employed in each particular case. In practice it is found that testators and settlors, to all of whom the comparative advantages of the alternative systems of investment are fully explained, show an overwhelming preference for the Common Fund method.

ECONOMIC POSITION.

12. As executor or administrator of the estates of deceased persons, committee of the estates of mental patients, manager of the estates of aged and infirm persons, attorney and agent, and in many other fiduciary capacities, the Public Trustee's interests are extensive. In all these cases the Public Trustee is a trustee or is virtually in the position of a trustee, and as such he must strictly observe the duties and responsibilities of a trustee. The assets held by the Public Trustee in the estates under his control are the private property of the beneficiaries or other persons represented, and in dealing with them the Public Trustee must be guided by the terms of the trust instrument, the law relating to the administration of trusts and estates, and the directions of the beneficial owners. His duty in this respect coincides exactly with that of any other trustee, and his responsibility is in no way diminished by reason that he is a State official, but, in fact, is increased thereby.

13. By reason of the period of economic stress through which the country is passing, the problems arising in the administration of estates under control and the other work of the Office are becoming increasingly difficult. Mortgagors, tenants, and debtors are finding themselves in straitened circumstances as a result of the decline in our national income by reason of the fall in the prices of the primary products of the country. In consequence, numerous applications are being made for relief in the payment of interest or instalments of principal, the payment of rent, and the payment of other debts due to estates. In considering the question of relief it must not be overlooked that the circumstances of the beneficiaries dependent upon the estates are often more unfavourable than those of the mortgagors or debtors seeking relief from their obligations, so that any concessions afforded to the latter would add to the embarrassment of those beneficially interested in the estates and dependent upon the income therefrom.