

The securities in which the Public Trustee is at present authorised to invest funds under his control are—Government securities of the United Kingdom, the Colony of New Zealand, or of the Australasian Colonies; Securities issued by a County Council, Borough Council, Harbour Board, Road Board, or Town Board; Mortgages of freehold lands; Fixed deposits with any incorporated bank carrying on business within the Colony; and in any way provided by a will or trust instrument. The Board of the Public Trust Office is bound by regulations not to advance on mortgage out of the general fund a larger sum than fifty per cent. of the valuation of any property offered as a security; but in many instances the evidence discloses the fact that the Board has failed to keep within the regulations. Neither the Board nor the Public Trustee ever appear to have taken into consideration that they had two funds, entirely distinct, out of which they could make advances—namely, the general funds of the office and the special funds arising out of trusts and wills, the first being subject to the regulation as to the fifty-per-cent. margin, and the latter being controlled either by the specific trust or will, or being absolutely free of any restriction. The evidence of the Public Trustee, and the returns furnished by him, also show that in several instances moneys have been advanced on mortgages without any valuation of the securities having been made.

By way of mortgage securities the Public Trustee has chiefly dealt with what are legally known as contributory mortgages, without having realised the risks and confusion that he might entail upon the Colony and himself. This plan of dealing with balances at credit of estates on such a class of security was apparently unknown to the members composing the Public Trust Board.

The position will be recognised by assuming, as examples of these mortgages, that three applications for different loans on different days had been placed for approval before the Public Trust Board—say, for £10,000, £3,000, and £1,000. The several securities having been approved by the Board, the loans were granted, and mortgages prepared in favour of the Public Trustee, who then paid to the mortgagors his cheques, drawn on his general account. The Public Trustee then takes from credit balances of estates, without the knowledge and consent of beneficiaries or of the Board, unequal sums of money, sufficient in the aggregate to make up each of the said mortgages. If the securities turn out to be good, and the interest thereon is paid regularly for the benefit of the many estates involved in the loans, no question is likely to arise; but, on the other hand, if the securities become unsatisfactory, and beneficiaries make urgent and unavailing demands for unpaid interest and for loss of principal moneys, serious difficulties and complications are sure to ensue; indeed, such an undesirable state of things already exists. Your Commissioners, without expressing any opinion as to the legality of such mortgages, cannot refrain from pointing out their many difficult and inconvenient surroundings. In the first place, if an excellent investment of the kind were made by the Public Trustee, bearing interest at seven per cent., or even at a higher rate, there exists no stated or fair principle by which the Public Trustee should be obliged to give preference to those balances or moneys that had stood uninvested for the greatest length of time in his books; and therefore any contributory mortgagee would have good cause of complaint if he found his money invested under that form of security at a lower rate of interest than that received by any other client of the Public Trust Office. The Public Trustee might, quite unintentionally, give a great advantage to an estate only recently brought under his control, and overlook other estates that had been for years on the books of the Public Trust Office. Again, where a loss or losses had to be faced—and there are many such—the plan of the Public Trustee is to distribute any loss *pro ratâ* among the contributing estates from which he had taken the money for the original mortgage; but, as the various sums so taken have been unequal in amount, varying from fifty pounds from one estate to many hundreds from another, it will easily be realised how confusion, discontent, and perhaps litigation may arise from such transactions. In several cases the Public Trustee has made allocations from estates that had come into his hands, as contributions towards mortgages which had been executed and in his possession for many months, and, subsequently, when losses had occurred in connection with the latter securities, the Public Trustee charged the same to the former estates on the *pro ratâ* principle, without the knowledge of beneficiaries as to the facts.

Your Commissioners are, therefore, of opinion that contributory mortgages are not satisfactory securities to deal with, either for the Public Trustee as mortgagee, or for the many contributing estates as mortgagees. The same power of investment can be obtained at a reduced, but certain, rate of interest, and without risk or inconvenience to any interests con-