

1946
NEW ZEALAND

PUBLIC TRUST OFFICE

(REPORT OF THE) FOR THE YEAR ENDED 31st MARCH, 1946

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

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 working of the Public Trust Office for the year ended 31st March, 1946.

The report reveals that the facilities made available by the Public Trust Office continue to be utilized to a very large extent by the public. The new business reported for administration valued at £7,959,725 showed an increase of £154,430 over the figures for the previous year, and the number of estates and funds accepted was 3,908, compared with 3,855 for the year 1944-45.

War conditions created many difficulties during the year, but in spite of this the efficiency of the Department has been maintained.

The steady and continued growth of the business of the Office is evidenced by the figures set out hereunder:—

Year.				Number of Wills held.	Number of Estates and Funds.	Value of Estates and Funds under administration.
						£
1926	..	..	..	48,957	13,087	38,009,480
1946	..	..	..	132,546	20,608	67,598,875

These figures afford ample evidence of the confidence which the public has in the Public Trust Office and are a testimony to the satisfactory discharge of its duties and responsibilities in the transaction of the business entrusted to it.

F. JONES,

For Minister in Charge of the Public Trust Office.

Wellington, 1st August, 1946.

REPORT ON THE WORKING OF THE PUBLIC TRUST OFFICE FOR THE YEAR ENDED 31st MARCH, 1946

Public Trust Office, Wellington C. 1, 31st July, 1946.

SIR,—

I have the honour to submit a report on the working of the Public Trust Office for the financial year ended 31st March, 1946.

ESTATES AND FUNDS

1. During the year 3,908 new estates and funds, of a total value of £7,959,725, were accepted for administration, as compared with 3,855, of a value of £7,805,295, in the previous year.

2. The administration of 4,341 estates was completed during the year, as compared with 3,789 in the previous year.

3. At the close of the year the total number of estates and funds remaining under administration was 20,608 of an aggregate value of £67,598,875, as against 21,013, valued at £67,943,931, at the end of the previous year. The decrease in the number and value of estates under administration is largely due to the fact that under existing conditions there is such a keen demand for properties that they are easily realized and the final distribution of so many estates is considerably accelerated. The figures showing the number and value of estates under administration do not include cases where the Public Trustee is required by statute to examine and report upon the accounts of persons (other than the Public Trustee) who are administering the estates of mental patients and aged and infirm persons, or where the Public Trustee's duties are not of an active character—*e.g.*, trusteeships for debenture-holders. The value of the estates and funds, &c., of these latter classes is £1,369,721.

WILLS OF LIVING TESTATORS

4. In the course of the year 6,653 new wills appointing the Public Trustee executor were placed on deposit, compared with 6,910 for the previous year. The smaller number of wills executed is due to the falling-off in the number of wills prepared for servicemen.

5. At the end of the year 132,546 wills were on deposit with the Public Trustee, representing an increase of 3,384 over the number held at the beginning of the year.

6. To provide for alterations desired by testators, 5,628 wills were redrafted in the course of the year, as against 5,270 in the previous year.

7. I am satisfied that no branch of the Office work is more useful or beneficial than the drawing of wills. It is to the advantage of the community that everybody with property to dispose of should do so by will instead of leaving it to the rigid operation of the rules governing intestacy. Even though these rules have been considerably amended in the last few years, it is obvious that all the cases of special hardship or dependency could not be provided for by legislation. The Office has seen many instances where for lack of a will dependants and others with the strongest moral claims have been left penniless, whilst we have had to go searching through New Zealand and overseas for next-of-kin who, when found, have taken everything.

Every possible care is taken to ensure that the intention of the testator is given effect to, and as a special precaution before an executed will is finally filed away it is perused by the Office Solicitor or an Assistant Solicitor in Head Office.

Special accommodation has been provided for the housing and custody of the executed wills and the strictest precautions taken to ensure secrecy and the safety of these documents.

ADMINISTRATION OF ESTATES AND KINDRED MATTERS

8. *Wills Estates*.—The number of wills estates accepted during the year was 2,214, of a total value of £4,175,397. It has been found that increasing numbers of persons who are themselves beneficiaries in estates already under administration by the Public Trustee have in turn chosen him to act for them as agent, executor, or trustee. It is evident that these persons appreciate the safe and efficient service which the Department is able to provide.

9. *Intestate Estates*.—The number accepted for administration during the year was 661, valued at £468,845. As the years go by more and more persons are executing wills, and consequently the number of intestate estates is gradually decreasing. The years of experience which the Office has had in this kind of work and its widespread organization greatly facilitate the prosecution by the Public Trustee of the lengthy and complicated inquiries which the establishment of next-of-kin so often involves.

10. *Administration of Deceased Estates under £400 in Value*.—The Public Trustee is called upon to administer large numbers of small estates. The provision in the Public Trust Office Act, 1908, and the Amendments whereby the filing of an election to administer obviates application for a grant of probate or administration, greatly facilitates the administration of these estates. This simple procedure eliminates a good deal of time and effects an appreciable reduction of costs, which, in conjunction with the moderate Office charges, saves persons in poor circumstances a considerable amount of expense.

11. *Estates of Persons under Disability*.—In terms of the Mental Defectives Act, 1911, 675 estates, valued at £880,358, were placed under the Public Trustee's control during the year. The provisions of the Act enable the Public Trustee to provide for the maintenance of the dependants and the control of the assets, from the time when the person under the disability can no longer manage his own affairs. In the control of such estates the objectives are to retain the assets of the individual as far as possible in their original form consistent with prudent business management such as the person concerned would use if he were able, to assist his dependants and to help the person under disability in every way so that he may be rehabilitated when on recovery he resumes control of his own affairs.

Legislation enables the Supreme Court to appoint a manager under the Aged and Infirm Persons Protection Act, 1912, in the estates of persons who do not need restraint but who for various reasons are incompetent to manage their own affairs. The effect of the appointment of a manager is to render the protected person incapable of making any transfer, sale, or disposition of any part of his estate without the leave of the Court.

In both types of estates there are occasions when the affairs of the persons concerned are for particular reasons placed by the Court in the hands of a private committee or manager, and in these cases there is an obligation placed on the Public Trustee by statute to examine and report on the statement of administration filed in the Court by such private committee or manager.

12. *Agencies*.—An increasing number of people appoint the Public Trustee to act as attorney on their behalf because of ill health, advancing years, location in different parts of the country from their assets, or absence from the Dominion. A number of servicemen going overseas took advantage of this service, and the Public Trustee was very pleased to be able to assist in this manner those who served their country. Special reduced charges were arranged, and the services rendered were appreciated by the servicemen concerned.

13. *Other Estates*.—There are incidental provisions in various statutes placing on the Public Trustee responsibility for the protection of individuals and funds where no other satisfactory guardian or custodian exists. Instances of such provisions are the control by the Public Trustee of certain benefit and

relief funds following public disasters. The Public Trustee is also able in certain circumstances to receive moneys on behalf of minors to be held for their welfare and benefit, to assume control of the estates of missing persons, and to deal with unclaimed land and property. The years of experience in these and similar tasks are available as occasion arises, and prompt assistance can be given where required.

14. *Workers' Compensation.*—The development of local industries and the dangers inherent in particular occupations have tended to increase the number of claims for damages on the death or injury of workers. In many estates under the control of the Public Trustee consideration has to be given to the advisability of making such a claim for damages, and a most careful investigation of all the circumstances is made. In cases where the Public Trustee is statutory custodian of compensation-moneys, and frequently where damages are awarded, the Public Trustee is required to supply to the Court a full report on the proposed disposition of the damages. The fullest details of the dependants and their circumstances are supplied with a view to seeing that justice is done to those entitled.

15. *Inquiries Overseas.*—Many estates have assets abroad, and the amount of correspondence and detail which require attention under this heading has now assumed considerable proportions. In the United Kingdom this is particularly heavy, and I wish to place on record the very great service rendered to this Department by the High Commissioner for New Zealand in London and his staff in handling so expeditiously and efficiently the heavy volume of business transacted for the Public Trustee. During the war years an officer of the Department was attached to the Royal New Zealand Air Force staff in London to attend to the administration of deceased airmen's estates, whether under administration by the Public Trustee or not, and his services were of very great help in expediting the necessary attention to the assets in England of the deceased airmen.

Even during the war many requests were made to the Public Trustee in New Zealand to administer the New Zealand assets of persons dying in England and elsewhere, and this class of business is one that is increasing from year to year.

16. *Servicemen's Settlement and Land Sales Act, 1943.*—Realization of estate assets has proceeded steadily, and there has been a big demand for all types of freehold and leasehold properties. Beneficiaries in increasing numbers are accepting the prices fixed by the Land Sales Committee and Court, in preference to withdrawing the properties from sale, and few difficulties have been experienced in complying with the requirements of the Act.

ENEMY PROPERTY EMERGENCY REGULATIONS 1939

17. During the year the Public Trustee, as Custodian of Enemy Property, has carried out the duties cast upon him by the Enemy Property Emergency Regulations 1939. Funds representing enemy property collected or realized by the Public Trustee and now held amount to £231,227.

Enemy property, together with the income therefrom, controlled by the Custodian of Enemy Property is held in trust for all persons having any interest in such property. The money is invested in accordance with the directions of the Minister of Finance.

INVESTMENTS FROM THE COMMON FUND

18. *Lending Operations.*—The demand for investments by lending institutions referred to in my report for the previous year has been maintained, but not accentuated, during the period under review. There are still large sums available for investment on first mortgage, and, as the number of

securities offering is limited, there is keen competition between financial concerns to obtain suitable investments. It is, however, pleasing to record that the sum of £474,704 was advanced on new mortgages during the year and advances to estates were made amounting to £171,229, as against £228,635 and £123,519 respectively during the year 1944–45.

As in the previous year, a number of mortgagors arranged repayment of their mortgages, while others effected renewals of lesser sums, and some relied on the provisions of the Mortgagors Extension Emergency Regulations and allowed their mortgages to run on as overdue without effecting definite renewals. In the case of rural securities many renewals were made at reduced amounts, indicating that the farming community is taking advantage of good prices and seasons to reduce liabilities.

Support was given to the war loans by substantial amounts invested therein on behalf of the Common Fund, and advances were made to local bodies amounting to £60,300.

19. *Collection of Interest.*—The amount of interest outstanding is the lowest recorded for many years past, and no difficulty has been encountered in collection. This reflects the prosperous conditions which are at present prevailing in this Dominion.

FINANCE

20. *Investment of Funds.*—The new investments completed during the year, excluding short-term deposits, totalled £2,160,726, compared with £2,622,098 for the year ended 31st March, 1945. The investments held by the Office at 31st March, 1946, inclusive of special investments made on behalf of estates and funds, was £42,079,359, representing a net increase of £234,030 for the year. The foregoing figures relate exclusively to investments made by the Office and do not include investments which constituted assets of estates when the latter came under the Public Trustee's administration and which are still held as assets of those estates.

The following table shows the increase in investments held during the past ten years:—

Year.	Investments held.		
			£
1936	..	..	.. 35,324,321
1941	..	..	.. 38,623,060
1946	..	..	.. 42,079,359

In previous reports comment has been made on the buoyant financial conditions prevailing in the Dominion and to the resultant difficulty in securing suitable mortgage investments.

The raising of loans by local authorities was also restricted during the war years, and as a consequence the only readily available form of investment for trust moneys was Government securities.

In the circumstances, therefore, it is not surprising to find that during the past five years the respective amounts of the principal classes of investments have varied considerably, as the following table will show:—

	1941.	1946.
	£	£
Mortgages	15,498,965	12,721,092
Local bodies' debentures	8,087,874	7,271,278
Government securities	13,709,325	20,832,042

21. *Advances to Estates and Beneficiaries.*—The necessity frequently arises at an early stage in the administration of an estate, of providing funds to meet debts, death duties, and other immediate liabilities, and to meet living-expenses of dependants. This the Public Trustee is able to do by way of advance on the security of the assets of the estate. No legal charges are

incurred, since the Public Trustee has a statutory charge over the assets of the estate as security for the advance, subject, of course, to any prior encumbrances. Other features of this advantageous method of providing ready money are the low rate of interest payable on such advances, and the fact that immediately moneys are received for application in reduction of the advance the interest charge falls accordingly.

With accommodation of this nature available the Office is also able to postpone the realization of assets in cases where the market is unfavourable, or where for other reasons it is undesirable to attempt to sell. The amount so advanced during the year totalled £171,229, and the total of current advances to estates and beneficiaries at 31st March, 1946, was £613,430.

22. *Annual Accounts*.—As a result of the favourable market conditions which obtained during the year, satisfactory realizations of assets of estates where realization was necessary or desired by the beneficiaries have been effected. This is reflected in the earnings of the Office for the year, which disclose an increase when compared with those for the previous year. As an offset, however, to this improvement in the revenue, expenditure has also increased, due principally to the general increase in salaries which became effective as from 30th June, 1944. Thus a full year's charge at the increased rates has been included in the expenditure for the year 1945–46.

After making provision for bad debts, depreciation on Office premises and other property, anticipated losses on mortgages, deferred maintenance expenditure, income-tax, &c., the net profit for the year amounted to £8,254.

23. *Safe Deposit Lockers*.—That clients who have taken advantage of the safe-deposit-locker system for the safe custody of their documents and other valuables appreciate the service is amply evidenced by the continued and increasing demand for such lockers. These lockers, housed in the Office strong-rooms, are installed at many branches of the Office and afford, at moderate cost, security against loss by fire or theft. Access to their lockers may be gained by lessees at any time during ordinary business hours.

Every precaution is taken to afford clients a full measure of protection, and with the risk of fire and burglary in private houses and insecure premises, the use of these lockers for storage of documents and other valuables is confidently recommended to the public.

24. *Local Bodies' Sinking Funds*.—In terms of the provisions of the conversion orders made in terms of the Local Authorities Interest Reduction and Loans Conversion Act, 1932–33, of many local bodies, annual reductions are required to be made in the loan indebtedness of local bodies, portions of such reductions being met from the sinking funds established to meet maturing loans. In other cases the sinking fund is accumulated in order to provide for the redemption of a loan the whole of which matures on one date. In the capacity of Sinking Fund Commissioner of a large number of sinking funds, the Public Trustee is called upon each year to make available substantial sums from the relative sinking funds to meet maturing debentures. During the past year, in addition to the recurring redemptions, one large loan matured where the Public Trustee, as Sinking Fund Commissioner, was called upon to provide in cash a sum of over £195,000.

As at 31st March, 1946, the total amount held in the sinking funds of various local bodies was £4,209,434.

25. *Accounting Work*.—In recent years there has been a marked increase in the volume of the accounting work of the Office. Some of the factors contributing to this increase are the reduced exemptions for death duties which have resulted in more estates becoming liable for duty, changes in the law relating to income-tax, the obligation of trustees to file returns of income and to arrange payment of social security charge and national security tax in respect of income derived by beneficiaries in estates. The operation of the

Finance Emergency Regulations, under which it is necessary to obtain the consent of the Reserve Bank to all remittances overseas and to furnish details to the Reserve Bank of all securities situated out of New Zealand, and the Enemy Property Emergency Regulations, under which the Public Trustee was appointed Custodian of Enemy Property, have also added to the accounting work of the Office.

STAFF

26. The staffing of an institution of the size of this Office provides a continuous problem at all times, and this has been particularly difficult during the war period. These difficulties are accentuated by the acute housing shortages in all parts of New Zealand, and, because of this, wherever possible, transfers of officers have been postponed or avoided. In the majority of cases, however, this cannot be done because transfers usually involve promotion to which the officers concerned are entitled and, moreover, the functions of the Office cannot be properly carried out unless all branches are adequately staffed. In addition to the difficulties mentioned, the expense of transferring officers at the present time is very high, and this is an additional reason for limiting transfers as far as possible.

27. *Staff Changes.*—The principal staff changes effected during the year were :—

Head Office

(a) The appointment of Mr. D. R. White, Solicitor, Head Office, to the position of Office Solicitor, *vice* Mr. J. H. Carrad, retired on superannuation.

(b) The appointment of Mr. C. A. Hendry, District Public Trustee, Nelson, to the position of Supervising Estates Clerk, Head Office, *vice* Mr. A. C. Dick.

(c) The appointment of Mr. G. E. Turney, Supervising Estates Clerk, Head Office, to the position of Senior Special Estates Officer, Head Office.

(d) The appointment of Mr. D. Campbell, District Public Trustee, Hastings, to the position of Inspector, Head Office.

District Offices

(a) The appointment of Mr. F. T. Carson, Assistant Controller, Estates Division, to the position of District Public Trustee, Christchurch, *vice* Mr. A. R. Jordan, retired.

(b) The appointment of Mr. A. C. Dick, Special Estates Officer, Head Office, to the position of First Assistant, District Public Trustee, Wellington, *vice* Mr. F. T. Carson.

(c) The appointment of Mr. F. M. Gundry, Inspector, Head Office, to the position of District Public Trustee, Nelson, *vice* Mr. C. A. Hendry.

(d) The appointment of Mr. R. W. Hope, Assistant District Public Trustee, Hamilton, to the position of District Public Trustee, Hastings, *vice* Mr. D. Campbell.

(e) The appointment of Mr. C. B. Allan, Supervising Estates Clerk, Head Office, to the position of Assistant District Public Trustee, Hamilton, *vice* Mr. R. W. Hope.

(f) The appointment of Mr. H. T. Harris, Second Assistant District Public Trustee, Auckland, to the position of District Public Trustee, Te Aroha, *vice* Mr. W. J. Turnpenny, retired on superannuation.

(g) The appointment of Mr. J. C. Robins, Second Assistant District Public Trustee, Christchurch, to the position of District Public Trustee, Blenheim, *vice* Mr. N. M. Chesney, retired.

(h) The appointment of Mr. R. Gray, District Solicitor, Dunedin, to the position of District Solicitor, Wellington, *vice* Mr. J. Reid, retired.

(i) The appointment of Mr. C. N. Irvine, District Solicitor, Masterton, to the position of District Solicitor, Dunedin, *vice* Mr. R. Gray.

28. *Rehabilitation*.—As stated in my last report, over five hundred officers of the Department have been in the Armed Forces or were seconded for duty to Departments connected with the country's war effort. A number who were absent with the Services returned to the Department during the year, and a training scheme is in operation to ensure that the gap in their official experience is bridged as speedily and as effectively as possible. The difficulties confronting these officers, who in many cases left for service with the Forces after a comparatively short period in the Office, are fully appreciated, and it is hoped that the arrangements by way of lectures and personal tuition will effectively assist them in overtaking the loss of experience occasioned by their absence with the Armed Forces. It is anticipated that the coming year will throw a greater strain upon the senior officers in the training of returned servicemen, but it is a duty which all officers will willingly undertake.

The scheme evolved within the Office for the training of returned men is simple and effective and will enable personal attention to be given to their training. It is pleasing to report that returned servicemen generally are displaying great keenness to recover the experience and knowledge lost as a result of their absence on military service. In the majority of cases these men, in addition to making special efforts to bring their departmental knowledge and experience up to date, are also studying for either the Accountancy Professional or Law Professional Examinations.

INSPECTIONS AND AUDIT

29. In an organization which covers the whole Dominion it is essential that there should be an effective uniform system of check and supervision throughout the many branches, and this work is dealt with by officers of wide experience and long service.

Although through staff shortages it was necessary to divert the activities of some of the Inspectors to other work for a considerable portion of the year, several branches, including some of the larger ones, were inspected. Comprehensive surveys were made of staffing requirements, organization, and other phases of a general nature. In addition, reviews of estates, which in some cases included farms and businesses in active operation, were carried out.

A system of internal audit in regard to the custody and handling of cash, securities, and other valuables was carried out by specially selected officers at all branches, and the cash transactions were subjected to a supplementary audit by the Government Audit Department.

LEGAL DIVISION

30. The volume of work requiring the attention of the Office Solicitor and the legal staff throughout the Dominion has continued to be heavy and of a very varied nature, but I am pleased to say that it has been promptly and efficiently carried out. In matters relating to trust administration and conveyancing the departmental solicitors have, by reason of the volume handled, a very wide experience. In the large number of estates administered by the Public Trustee every variety of law question has to be dealt with, and, as will be seen from the figures set forth in paragraph 4 of this report, the preparation of wills is of great volume. The experience gained from practical administration matters is valuable in the preparation of wills. With this experience the legal staff of the Department are specially qualified to advise testators upon all matters arising out of the preparation of their wills.

During the year administration was obtained in 2,822 estates. Other Court applications for leave to take necessary steps in the administration, but

not authorized by the will or other trust instrument, or by statute, numbered 83, while in 3 cases it was necessary to file a certificate under Part IV of the Administration Act electing to administer the estates concerned as insolvent. In addition, 50 exemplifications of foreign probates or letters of administration and 121 exemplifications of New Zealand grants were sealed.

The operation of the Workers' Compensation Act, 1922, and the Deaths by Accidents Compensation Act, 1908, give rise to a large volume of legal work. Apart from the prosecution and defence of claims under both these Acts which the Public Trustee has to undertake in his capacity as executor or administrator of estates, he is called upon to report to the Compensation Court upon the apportionment of compensation-moneys recovered by private executors and administrators, or dependants, under the Workers' Compensation Act in respect of claims arising out of the death of a worker. The Public Trustee is also very frequently requested by the Supreme Court to make similar reports in respect of damages recovered under the Deaths by Accidents Compensation Act, 1908. In the compilation of the Public Trustee's reports, important questions of law sometimes arise. Recently difficult technical questions were raised concerning the scope of section 14 of the Statutes Amendment Act, 1939, which was passed in order to enable the Supreme Court to settle damages recovered under the Deaths by Accidents Compensation Act, 1908, upon protective trusts for the benefit of the dependants of the deceased. At the suggestion of the Right Honourable the Chief Justice, the Public Trustee has instituted proceedings under the Declaratory Judgments Act, 1908, to have these questions determined. These proceedings have been removed into the Court of Appeal for argument, so as to obtain an authoritative decision for the guidance of the Court in the future. The initiation and prosecution of these proceedings are being handled by the Office Solicitor and his staff. The case has now been heard, and the Court has given judgment. This judgment will be of importance in its scope and bearing on the issues involved, and therefore the costs of the proceedings are being borne by the Public Trust Office.

CONCLUSION

31. I take this opportunity of expressing my acknowledgment of the loyal services and co-operation rendered by the Assistant Public Trustees, the controlling officers and staff as a whole, and the Office Agents throughout the Dominion. I feel that their untiring and whole-hearted service to the Office and its clients has contributed in no small measure to the success achieved.

Cordial thanks are also due to the members of the Investment Board for their assistance in matters relating to the investment of moneys in the Common Fund.

I have, &c.,

W. G. BAIRD,
Public Trustee.

The Hon the Minister in Charge
of the Public Trust Office.

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