

position should be made except with the concurrence of the advisory trustees; also, that if the Public Trustee acted with the concurrence of the advisory trustees he should not be responsible, provided he acted with the *bona fides* required of a trustee. It should be further provided that in case of difference of opinion between the Public Trustee and the advisory trustees the question should be referred to a Judge of the Supreme Court.

In support of these recommendations it may be stated—(1.) That in several trust instruments somewhat similar provisions are inserted, and the Public Trustee has them occasionally inserted in wills drawn by the Trust Office. (2.) That it is the course of the Public Trustee, wherever practicable, to obtain the concurrence of all beneficiaries who are of age in a proposed sale, and to consult them as regards price and other matters. So also with regard to other important transactions. Of course, in the case of those under twenty-one any such concurrence cannot be regarded as possessing any validity. Why not, then, allow of an advisory trustee representing them? (3.) The officials of the Public Trust Office and those unconnected with the office who have given evidence before us consider the suggestion as excellent, and strongly support it.

We therefore recommend that express provision be inserted in the Act. It may be that with the law as it stands advisory trustees may be appointed, but an express provision in the Act would operate as a notification to testators and others, and tend to recommend the Public Trustee in cases where, but for that, he might have been rejected.

The advisory trustees would in no way be concerned with investments in the Common Fund. Their functions would in substance be confined to the period of realization and to consultation regarding the management of estates, and also the maintenance and education of children where those objects have to be considered by trustees and not by their guardians.

To provide for the death, resignation, &c., of an advisory trustee the same powers of filling the vacancy should be available as exist by law or as may be conferred by the trust instrument with regard to ordinary trustees.

Respecting the maintenance and education of children, the guardian, where distinct from the Public Trustee, would fill the place of an advisory trustee.

Delegations by Trustees.

A trustee or executor absent from or about to leave the Dominion may by law delegate his powers to an attorney. There is nothing in law in such cases to prevent him from delegating his powers to the Public Trustee, and we believe there is no reason why a testator should not authorize his trustees to delegate all the active work of the trust, including the receipt, payment, custody, and investment of money to the Public Trustee. Such a provision is frequently inserted in the case of a public company, and it has been acted on without difficulty.

We therefore suggest and recommend that provision be made in the Act for enabling the Public Trustee to act as the delegate of any trustees where the trust instrument so authorizes.

It should be provided that while so acting the trustees should fall into the position of advisory trustees if they so desired, but should not act otherwise in the trust.

Remedy for Grievances.

In order to enable beneficiaries to have their complaints investigated and grievances allayed, such for instance as those brought before us, we recommend that,—

(a.) A solicitor or accountant authorized in writing by a beneficiary interested in an estate should be entitled as of right to examine the file relating to that estate.

(b.) Any beneficiary aggrieved by any act or omission or decision of the Public Trustee in relation to any trust should be entitled to apply in Chambers to a Judge of the Supreme Court, and the Judge should be empowered to make such order in the matter as he thinks just. This is in substance a provision contained in the English Public Trust Act.