

is otherwise objectionable. If on any of these grounds the Public Trustee declines to follow the advice or direction given the advisory trustee is at liberty to submit the matter for decision by the Supreme Court.

If there are several advisory trustees appointed for any estate and they tender conflicting advice the Public Trustee may take the direction of the Supreme Court as to his action.

The Public Trustee has been added to the list of persons who may apply to the Court for the appointment of an advisory trustee. (Section 37.)

It may happen that the Public Trustee is administering an estate in which one person is entitled to a life interest, and after his death the property is to go to other persons. In certain cases the life tenant may go into possession. He may fail to keep the trust property in repair and to pay all outgoings which are properly chargeable to income. The Public Trustee has now power to compel the life tenant to carry out his obligations, and in the event of a continued refusal to do so he may recover possession of the land. The Public Trustee, where he is acting as trustee or administrator, also obtains the full powers which otherwise the tenant for life would have under the Settled Land Act. The object of this section is to prevent loss or injury being done to the estate through default or neglect of a life tenant. (Section 59.)

Reciprocity of administration with the Public Trustees of England and the Australian States has been effected. The Public Trustee, as ancillary administrator of the New Zealand assets of a person dying domiciled in England or in one of the Australian States, has now legislative authority to account to the Trustee of the country of domicile who is principal administrator. The right is also given to an ancillary administrator in England or in an Australian State to account to the Public Trustee of New Zealand as principal administrator where the deceased person died domiciled in New Zealand, leaving assets in both jurisdictions. (Section 68.)

Statutory authority has been given to the existing practice under which the Public Trustee is frequently requested by the Court to represent the interests of infants, absentees, or other persons who, through disability, cannot properly safeguard their interests in the proceedings. (Section 78.)

The provision under section 51 of the Public Trust Office Act, 1908, for a simple method by which the Public Trustee may evidence the fact that he is administering the estate of a deceased person has now been extended to include the case where the Public Trustee is acting in any other capacity. (Section 81.)

In cases where payment of pecuniary legacies is postponed by reason of the infancy or disability of a legatee, or the insufficiency or non-realization of assets, or from any other reason, hitherto infant legatees and those under disability have been entitled to interest at Common Fund rates, while adult legatees have received 8 per cent. on their bequests. Under the provisions of the Amendment Act the interest on all such legacies is to be at a rate fixed by the Public Trustee, but not exceeding the rate current on advances by way of overdraft. (Section 102.)

Until the passing of the Amendment Act the Public Trustee, like any private trustee, was bound to sell and convert into money any investments forming part of an estate which were not deemed to be trust investments, though they might in fact be perfectly sound and worthy of retention. The Public Trustee has now been given discretion as to what assets he shall retain from sale in the absence of a contrary direction from the testator.

It is furthermore provided that a person to whom is given the income of an estate under the trusts of a will is to receive the whole of the income, and is not to be restricted to merely a fixed rate of interest on the value of the assets, as at the present time he may be under a technical rule of law known as the rule in *Howe v. Dartmouth*. This rule, which is founded on judicial decision, gives to the word "income" a technical meaning, and one which the testator may never have intended to attach to it. Experience has shown that in most cases the rule tends to defeat the intentions of testators, and in most well-drawn wills the operation of the rule is specifically excluded. The provision incorporated in the Amendment Act will thus meet the wishes of almost all testators, whilst on the other hand any person who desires that the rule in *Howe v. Dartmouth* should still apply can so direct. (Section 20 (3) (r).)