

HISTORICAL APPENDIX

COVERING THE PERIOD FROM THE FOUNDATION OF THE OFFICE IN 1872 TO THE YEAR 1922.

THE present year marks the completion of a term of fifty years since the office of Public Trustee was constituted. It has therefore been thought desirable to supply a brief survey of the growth and development of the Office during that period.

As one of the earliest and perhaps one of the most successful examples of State enterprise, the history of the Office over the past fifty years should prove of general interest. The best testimony to the success of the Office is found in the fact, which has often been placed on record, that the example of a State-guaranteed Public Trust Office in New Zealand has been followed in many parts of the British Empire.

ESTABLISHMENT OF OFFICE.

For some years prior to 1870 persons who desired to make provision for their children, or to settle property by will, or in any other way, had experienced considerable difficulty in finding friends willing to undertake the duties of trustees and at the same time possessing qualifications which would enable them to carry out those duties in a satisfactory manner. This difficulty was especially pronounced in a new country such as New Zealand was, where a man's financial position was liable to change frequently and rapidly, and the element of solvency—a most important one when considering the fitness of a person to be a trustee—might very quickly disappear. Moreover, the colonists were very busy men, and changes of residence were frequent. Then, again, the value of colonial property fluctuated considerably, and the administration of a trust required close personal supervision; but it often happened that when a trustee's appointment took effect he had left the colony or removed to another part, and would be unable to give the close attention to the administration which was required. Again, most of the colonists had left in the Mother-country the relatives from amongst whom they would naturally have selected trustees, and thus perforce had to depend for their trustees upon persons upon whom they had no special claims.

Under these circumstances the late Hon. E. C. J. Stevens conceived the idea of appointing a State official whose special function it should be to undertake duties of this kind, who by his frequent employment as trustee would possess considerable experience, and for whose good conduct the Government would be responsible.

He succeeded in bringing Mr. (afterwards Sir Julius) Vogel, the then Colonial Treasurer, to his way of thinking, and in 1870 Mr. Vogel introduced a Bill providing for the establishment of a Public Trust Office and the appointment of a Public Trustee to administer it. The Bill passed the House of Representatives, but was thrown out by the Legislative Council.

In 1872 Mr. Vogel introduced another Bill which met some of the objections which had been levelled against the previous measure. One of these objections was that the proposal interfered with private enterprise, and in the new Bill this objection was met in part by the deletion of the former provisions empowering the Public Trustee to act as attorney. Some of the opponents of the previous Bill considered that there should be some guarantee against loss through the acts or defaults of the Public Trustee, and the 1872 Bill provided that if any person suffering such loss should be unable to obtain compensation from the Public Trustee the deficiency should be made good out of the Consolidated Fund.

PROVISIONS OF FIRST PUBLIC TRUST OFFICE ACT.

Although it did not escape criticism, the Bill passed both Houses, and became law on the 25th October, 1872, under the title of "The Public Trust Office Act, 1872." It provided that a Public Trustee should be appointed by the Government, and that he should give such security as the Government might think fit. He was entirely debarred from engaging in private business; he was debarred, as far as the statute could do it, from engaging in politics; he was not eligible to sit in the Executive Council or in the General Assembly, to be Superintendent of a Province, or to hold a seat in a Provincial Council, and he was not to enter into any contract with the General or Provincial Governments. In fact, his entire time, as far as the law could secure it, was to be devoted to the work of his office, and he was to be guided in dealing with important questions affecting the management of his trust, such as the sale of landed property, the investment of trust funds, and a variety of other like matters, by a Board consisting of the Colonial Treasurer, the Government Annuities Commissioner, the Attorney-General, the Commissioner of Audit, and the Public Trustee.

The Act went on to say that the Government might instruct the Public Trustee to take charge of certain public trust property (such as moneys invested in savings-banks and Government assurances).

Provision was made for private persons to tender their properties for management by the Public Trustee, who was not, however, allowed to take them over until the authority of the Board had been obtained to their acceptance. Any person wishing to leave the management of his property after his death to the Public Trustee might deposit his will with that officer, who, on the death of the testator, would take charge of his estate. All moneys being part of or accruing out of property placed in the Public Trust Office were to be paid into a special bank account known as the Public Trustee's Account, and the investment of moneys in that account was to be in securities to be approved by the Board. The moneys belonging to each estate were to be invested separately, and the income appropriated to the particular estate to which the respective investments belonged.