

INTEREST ON ESTATE FUNDS.

By section 25 of the Public Trust Office Act of 1872 it was provided that the Office Board should direct how moneys held by the Public Trustee should be invested, but, subject to special provisions in a trust or will to the contrary, all such investments were to be made in the following securities: (a) Government securities of New Zealand; (b) Government securities of the United Kingdom; (c) Government securities of Australian colonies, including Tasmania. Investments so made from time to time were made as investments of the various estates and funds under the Public Trustee's administration, and interest received from those investments was credited to the appropriate estates.

By the amending Act of 1873 it was provided that all moneys in the Public Trustee's Account (except as regards moneys as to which special provision was made by the trust instrument) should for the purposes of investment form one common fund, and that the investments so made should not be made on account of any particular estate. The interest to be derived from these investments was to be divided amongst the various estates the funds of which constituted the Common Fund, in such manner and at such times as might be determined by regulations to be made by the Governor in Council.

By Order in Council dated 4th June, 1874, regulations were gazetted to give effect to the above provisions. Under those regulations the estate funds were classified under two headings, namely: (a) Sums to remain in the Office for a fixed period; (b) floating balances.

With regard to the former class of funds it was provided that any sum exceeding £100 which was not required to be withdrawn from the Office within three years should be invested under the direction of the Board in one or other of the securities of the nature prescribed by section 25 of the Act of 1872. All investments so made were held on behalf of the estate for which the investments were made, and the interest received in respect of those investments was added to and formed a part of the balance of that estate. When the balance of such an estate was withdrawn from the Office the securities were delivered to the person entitled to receive the balance, the value of those securities being taken to be the price at which they were originally purchased.

With regard to the latter class of funds it was provided that, subject to specified conditions, all floating balances at credit of estates should bear interest at the rate of 4 per cent.

The principal conditions attaching to these regulations were—

- (a.) Interest was computed and allowed as to the 31st March, 30th June, 30th September, and 31st December in each year on the minimum balance that had been at credit at any time during the quarter ending on one of the dates mentioned, and no interest was allowed on any estate in respect of which there was no balance at credit.
- (b.) No interest was allowed on any estate that had not had a balance at credit amounting to £50 at some time during the quarter.
- (c.) Office interest was capitalized annually.
- (d.) Interest was added up to the last day of the quarter preceding the withdrawal of the funds from the Office.

In 1887 proviso (b) was modified to the extent that interest should be allowed at the rate of 4 per cent. on moneys held for minors for whom the minimum balance during a quarter had not been less than £10.

The conditions under which interest at the rate of 4 per cent. was allowed on floating balances were further modified by an Order in Council dated 14th May, 1889, which determined—

- (a.) That no interest should be allowed during a quarter, other than on moneys held for minors, on the balance at credit of any estate if that balance had fallen below £50 at any time during that quarter:
- (b.) That interest so allowed was not actually credited until it was required for distribution to the persons entitled—in other words, that the provision for yearly capitalization of Office interest was revoked.

The principle of the common fund as constituted by the Act of 1873 was considerably extended by the provisions of the Public Trust Office Acts Amendment Act of 1891. Section 11 of this Act enacted that all moneys in the Public Trustee's Account were, in the absence of any special direction by statute or instrument, to form a common fund for investment. The interest from these investments was not credited proportionately to the estates the funds of which constituted the Common Fund, but was credited to an Interest Account. The section just referred to provided, however, that on the funds constituting the Common Fund interest should be credited at rates from time to time to be determined by the Governor in Council, subject to a limit of 5 per cent. on funds below £3,000, and to a limit of 4 per cent. in other estates.

By Order in Council dated 26th November, 1891, and gazetted on the 10th December of that year, the rates of interest were determined as follows:—

- (1.) Where the moneys arising from one property did not exceed £3,000, £5 per cent.;
- (2.) Where the moneys so arising exceeded £3,000, £4 per cent.

This Order in Council also declared that such rates of interest should be computed from the 1st day of the month following the receipt of such moneys. It will be noted that these regulations fixed no minimum balance on which interest should be credited. Further, the method of computation was placed on a more liberal basis than under the previous regulations.

The principal feature of the provisions in the 1891 Act in so far as the Common Fund was concerned was the direction that any deficiency in the Common Fund should be paid out of the Consolidated Fund. The effect of this provision was, of course, that the interest at the rates from time to time prescribed by regulations pursuant to the various Office Acts was guaranteed by the State. The principal sums were similarly guaranteed.

It was submitted in this latter connection that the boon of such a guarantee should not be given without obtaining authority to form the unrestricted moneys of all estates into a common fund for general investment, and to pay at regular periods common limited rates of interest on those moneys.