

**“SOME CONSIDERATIONS IN REFERENCE TO THE ESTABLISHMENT OF THE OFFICE OF A PUBLIC TRUSTEE IN IRELAND,”**

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The large amount of public interest which has been aroused in many quarters by the creation of the office of Public Trustee in England, and the very reasonable demand for a detailed examination of that official's sphere of operations; and of his mode of administering the functions imposed on him by the Public Trustee Act, 1906, will, I hope, be accepted as my excuse for reading this paper before you to-night.

That public interest in this matter has been awakened in this country is shown by the fact that in November, 1911, the Dublin Chamber of Commerce invited the Public Trustee for England to deliver an address upon the work of his Department. The wish was then expressed by some of those taking part in the meeting that such an official might be available as a Trustee in this country, and at its meeting on the 3rd of March last the Chamber of Commerce passed a resolution in favour of the creation of the office of a Public Trustee for Ireland. Again, on the 14th February last Sir Thomas Esmonde, M.P., and Mr. William Field, M.P., speaking in the House of Commons, both urged the extension of the principle of the Public Trustee to this country. Various other expressions of opinion of more or less weight have appeared from time to time within the past few months, indicating that the opinion is widely held that the appointment of some such official as a Public Trustee is a public want in this country.

It is generally assumed that in the establishment by the State of a Public Trustee, authorised to undertake all the duties of an executor, administrator, and trustee, our Colonies have been in advance of the Mother-country, but this assumption is not entirely well founded. I have been at the pains of communicating with nearly all our more important Colonies, and I have made enquiries as to what provision is made by them for the performance of the functions of executors and administrators and trustees, and for the office of a Public Trustee, and I find that in the Australasian Continent only in the States of South

Australia and Tasmania and in the Dominion of New Zealand (to which I shall subsequently refer) have the offices of Public Trustee been created; that in the Union of South Africa there is no official holding the appointment of Public Trustee in the Union; and that in none of the Provinces of the Dominion of Canada does such an office exist except to a very limited extent, and only for the administration of intestate estates in Court, and for the properties of infants and persons of unsound mind.

The first of our Colonies to establish the office of a Public Trustee was New Zealand, where, after various difficulties, a Bill was passed in 1872 establishing the office of a Public Trustee. The evidence given before the House of Commons Commission in 1895 by the Hon. Sir Julius Vogel, Prime Minister, and subsequently Agent-General for New Zealand, and Sir Westby Perceval, K.C.M.G., then the Agent-General for New Zealand, shows that the office had in its earlier days a somewhat chequered career. After nearly twenty years of varying success it became necessary in 1891 to appoint a Royal Commission to enquire into the working of the Department, when it was found that in several particulars the management had been very faulty and that there were some special causes of complaint.

As the result of the report of the Royal Commission, which amongst other recommendations urged the provision of a Government guarantee, amending Acts were passed in 1891 and 1893, which now regulate the office of the Public Trustee of New Zealand.

The time at my disposal does not admit of my examining the work of the Public Trustee of New Zealand in detail, but it may be stated that the evidence given before the House of Commons Committee in 1905 by Sir Julius Vogel showed that the Department supplied a real want in New Zealand, that it was then being largely availed of, and that its usefulness was becoming more and more widely recognised. I have reason to believe that this record is being maintained.

An important feature of the mode of administration of the New Zealand Public Trustee's office is that unless specially directed to be excluded by the creator of the trust, all trust funds received by the Public Trustee are merged in one common fund, the security of the principal and interest of which is guaranteed by the State, and the rate of interest on which is fixed by the Government by order of the Governor in Council from time to time. The income derived from the funds by reinvestment goes to defray the expenses of the Public Trustee's Office, the surplus going to the State Treasury. If, however, the in-

come received from the common fund fell below the rate declared and guaranteed by the State (an improbable contingency in a new country where interest rates rule high) the difference would have to be borne by the State. Trust funds in the hands of the Public Trustee which he is precluded by directions in the instrument creating the trust from merging in the common fund, do not participate in the State guarantee. Another feature in the office of the New Zealand Public Trustee is that he is assisted and controlled by an (unpaid) Advisory Board constituted under the Act of 1872 and composed of certain important public officials.

The example of New Zealand was followed by South Australia in 1891, when under the Administration and Probate Act, 1891, the office of a Public Trustee was established for South Australia on lines practically similar to the system existing in New Zealand. The reports which I have obtained as to the work of the Public Trustee of South Australia tend to show that the success which has attended the administration of the Public Trustee in New Zealand has been repeated in South Australia. I should perhaps mention that a Bill to constitute a Public Trustee for the State of New South Wales, a comprehensive measure largely modelled on the Public Trustee Act, 1906, and on the South Australia Administration Act, 1891, was introduced in the House of Legislature of New South Wales in November last, but up to March last had not been passed, though it was hoped that the Bill might become law before very long.

Since this paper was set up I have received from the Public Trust Office of Tasmania "the Public Trust Office Act, 1912," which constitutes the office of a Public Trustee for the State of Tasmania, and the Regulations made in pursuance of it. The Act is framed very largely on the same lines as those in force in New Zealand and South Australia and the Bill at present before the New South Wales Legislature. As the Act only came into operation on the 17th of December, 1912, and the Regulations were not signed until the 18th of February, 1913, the Public Trustee is obviously not in a position to make any statement as to the working of his Department.

Although the office of Public Trustee in England did not come into operation until the 1st January, 1908, the question had received a large amount of public attention, and had already occupied the attention of Parliament for some years.

So far back as 1890 a Bill for the establishment of a Public Trustee was introduced by the then Government, and passed to the House of Lords. It was afterwards

introduced by Mr. Goschen, then Chancellor of the Exchequer, to the House of Commons, but did not reach a second reading. The late Sir Howard Vincent, M.P., and Mr. Warmington, M.P., who took a great interest in this question, introduced several Bills to the House of Commons with varying fortunes, and a Select Committee of the House of Commons was appointed in February, 1895, "to inquire into the liabilities to which persons are exposed under the present law as to the administration of trusts, and whether any further legislative provision might be made for securing adequate administration of trusts without the necessity of subjecting private trustees and executors to the risks which they now run."

This Committee reported in May, 1895, and having reviewed the history of the movement up to that time and having described the system then existing in New Zealand, and also the system of administering private trusts under judicial supervision through the agency of what is known as "a judicial factor" existing in Scotland, they laid down certain conditions, which they declared to be indispensable for the success of any system to be established in England. These were that the system should be inexpensive, and that those who administered it should be easily and promptly accessible and personally ready to take the same views as a sensible private trustee now takes to acquaint himself with all that belongs to the trusts committed to him, and that whether the trust was to be worked by an Official Department, or by a Court of Justice, or by co-operation between the two, the individual who, on the particular occasion manages the trusts, must not be separated either by official red tape or by judicial etiquette from those with whose interests he has to deal.

The Report further declares:—"It must be made clear that he is not a person to be approached by formal proceedings either of an official or of a legal character, requiring to be satisfied of the most trifling fact by prolix and expensive proof, but a man empowered and required to use his own judgment, to make any necessary enquiries for himself, and to take an initiative in the interest of the trusts either of his own motion or at the request however informal of anyone concerned. If such administration be made available to any who desire their services the system would be of the highest utility, but if all that can be offered to the public is an elaborate hierarchy of wholly inaccessible officials or a reproduction of the tedious and costly methods of the past, it would be as well to leave things as they are."

The Committee then reported that the desired result might be attained by the employment of suitable persons

in each district who should be subject to official control. It recommended that the trust funds should be deposited either in Court or with the Paymaster-General (an official analogous to our Accountant-General of the Supreme Court of Judicature in Ireland), and it stated that it did not appear desirable that the persons appointed to administer trusts under official control should of necessity be officials. "There ought," declared the Report, "to be in every district an official whose duty it should be to undertake that function when required to do so. Such officials might be from time to time selected by the Lord Chancellor for that purpose from the District Registrars and County Court Registrars in the country, or from the wider range of Court officials in London, or an even larger choice of field might be left to the Lord Chancellor, but it also declared that it ought to be also possible to appoint a professional or other suitable person such as a solicitor or accountant preferably on the recommendation of those interested of whose probity and capacity the Court was satisfied. Such a trustee would frequently know the requirements and affairs of the beneficiaries, and for the sake of his own credit as well as with a view to further employment of the like kind, would be under an inducement to discharge his duties efficiently. Whoever is appointed to administer the trust, whether an official or a non-official person ought to be required to act precisely as private trustees now act, using his own discretion and proceeding, not as a judge, but as a man of business. But in all respects he should be in the situation of an officer of the Court able to ask for directions and bound to obey them whether asked for or not. In any case of difficulty he should be at liberty without either formality or expense to consult the Judge who might, if he thought it necessary, give other parties an opportunity of presenting their views or of forming his mind before giving his directions. Like facilities should be given for hearing any complaint or representation by persons interested in the trust. In short, if these matters are to be under the control of the Judge it is essential that he should on occasions supervise administration without formality. If such supervision is available it will command the complete confidence of the public and will secure efficiency. It would be not only unnecessary but mischievous to make any such system as is here proposed compulsory."

"*Festina lente*" has been declared to be the guiding principle of British legislation. That there may be some truth in this saying is suggested by the fact that it took more than ten years for the Report of the Parliamentary Select Committee to bear fruit in legislation, and when

the fruit did appear it was found to be quite different to the seed which had been planted. The Act was not framed upon the lines suggested by the recommendations I have read. Instead of appointing "suitable persons in each district who should be subject to official control and enacting that the trust funds should be deposited in Court or with the Paymaster-General," the office of a Public Trustee was created as a corporation sole, with the title of the Public Trustee, with a perpetual succession and an official seal, and he was constituted an official for the whole of England to undertake the duties which were specifically set out in Sections 2, 3, 4, 5, and 13 of the Act.

Dealing generally with the functions of the Public Trustee as defined by the Act it may be stated that under Section 2, sub-section (1) the Public Trustee may if he thinks fit, act

- (a) in the administration of Estates of small value;
- (b) as Custodian Trustee;
- (c) as Ordinary Trustee;
- (d) be appointed to be a Judicial Trustee;
- (e) be appointed to be the administrator of the property of a convict under the Forfeiture Act, 1870;

and in these or any other capacities, to which he may be appointed in pursuance of the Act, he may act either alone or jointly with any person or body of persons, and he has all the same powers, duties and liabilities and is entitled to the same rights and immunities and is subject to the control and orders of the Court as a private trustee acting in the same capacity.

The Public Trustee may decline either absolutely or except on the prescribed conditions to accept any trust subject to the reservation that he shall not decline to accept any trust on the ground only of the small value of the trust property.

The Public Trustee is precluded (Sec. 2, sub-sections 4 and 5) from accepting any trust which involves the management or carrying on of any business except in cases in which he may be authorised to do so by rules made under the Act; or in acting in any trust under a deed of arrangement for the benefit of creditors, or the administration of any estate known or believed by him to be insolvent; or in any trust exclusively for religious or charitable purposes.

In the administration of estates of small value special powers are conferred on the Public Trustee by Section 3, which provides that any person who might apply to the Court for an administration order of an estate, the gross

capital value of which is less than £1,000, may apply to the Public Trustee to administer the property, and if he is satisfied that the persons beneficially entitled are of small means, the Public Trustee shall administer the estate unless he sees good reason for refusing to do so. He is then empowered to vest all the trust property in himself by his own declaration, and for the purpose of administering the estate the Public Trustee may exercise such of the administrative powers and authorities of the High Court as may be conferred on him by rules made under the Act.

The same section (sub-sec 5) provides that where administration proceedings have been instituted in any Court, and by reason of the small value of the estate the Court is satisfied that it can be more economically administered by the Public Trustee, or that for any other reason it is expedient that the estate should be administered by the Public Trustee, the Court may order the estate to be so administered, and the section shall apply as if the administration of the estate had been undertaken by the Public Trustee.

At the suggestion of the Incorporated Law Society of England, Section 4, was introduced, which provides that the Public Trustee shall act in the capacity of Custodian Trustee to protect the corpus of trust funds without actively interfering in the management of the other trustees—described as “managing trustees”—as regards income. This Section provides that where the Public Trustee is appointed to be Custodian Trustee of any trust the trust property shall be transferred to the Custodian Trustee as if he were sole trustee, but that the management of the trust property and the exercise of any power or discretion exercisable by the trustees under the trust shall remain vested in the trustees other than the Custodian Trustee; that the Custodian Trustee shall have the custody of all securities and documents of title relating to the trust property, but the “managing trustees” shall have free access to them and be entitled to take copies or extracts from them, and that the Custodian Trustee shall concur in all acts necessary to enable the managing trustees to exercise their proper powers of management or any other power vested in them.

Under this Section all sums payable to or out of the income or capital of the trust property shall be paid to or by the Custodian Trustee, but that the Custodian Trustee may allow the income of the trust property to be paid to the managing trustees, or may be applied as they may direct; and that the power of appointing new trustees, when exercisable by the trustees, shall be exercisable by the managing trustees alone; and that in determining the

number of trustees for the purposes of the Trustee Act, 1893, the Custodian Trustee shall not be reckoned as a trustee.

The most important section in the Act is Section 5, which provides that the Public Trustee may be appointed to be trustee of any will or settlement or other instrument creating a trust or to perform any trust or duty belonging to a class which he is authorised by the rules made under the Act to accept, and whether the instrument creating the trust came into operation before or after the passing of the Act, and either as an original or as a new trustee, or as an additional trustee, in the same cases, and in the same manner, and by the same persons or Court, as if he were a private trustee, with this addition, that, though the trustees originally appointed were two or more, the Public Trustee may be appointed sole trustee. It further provides that where the Public Trustee has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with Section 11 of the Trustee Act, 1893, notwithstanding that there are not more than two trustees and without such consents as are required by that section; and that the Public Trustee shall not be so appointed either as a new or additional trustee where the will, settlement, or other instrument creating the trust or duty contains a direction to the contrary, unless the Court shall otherwise order.

Section 6 deals with the powers of the Public Trustee to act as an executor or administrator, and provides that if the Public Trustee is authorised by any rule made under this Act to accept by that name probates of wills or letters of administration, the Court may grant such probate or letters to the Public Trustee by that name, and that the Public Trustee shall be entitled equally with any other person or class of persons to obtain the grant of letters of administration, save that the consent or citation of the Public Trustee shall not be required for the grant of letters of administration to any other person, and that, as between the Public Trustee and the widower, widow, or next of kin of the deceased, the widower, widow, or next of kin shall be preferred unless for good cause shown to the contrary.

This Section (sub-sec. 2) further enables an executor or administrator, even though he has already acted in the administration of an estate, with the sanction of the Court, and on notice to the persons beneficially interested, to transfer the estate to the Public Trustee for administration, either solely or jointly with the continuing executors or administrators, and the order of the Court sanctioning



such transfer shall confer on the Public Trustee all the powers of such executor and administrator.

Section 7 of the Act provides and defines the state guarantee for the conduct of the Public Trustee, and it enacts that the Consolidated Fund of the United Kingdom shall be liable to make good all sums required to discharge any liability which the Public Trustee, if he were a private trustee, would be personally liable to discharge, except where the liability is one to which neither the Public Trustee nor any of his officers has in any way contributed, and which neither he nor any of his officers could by the exercise of reasonable diligence have averted.

Section 9 authorises the Public Trustee to charge such fees, whether by way of percentage or otherwise, as the Treasury with the sanction of the Lord Chancellor may fix (in addition to any expenses which might be retained and paid if the Public Trustee were a private trustee), and sub-section 4 expressly provides that the fees shall be arranged from time to time so as to produce an annual amount sufficient to discharge the salaries and other expenses incidental to the working of this Act (including such sum as may be required to insure the Consolidated Fund against loss in respect of the guarantee) and no more.

The principles on which the Public Trustee shall discharge his functions are laid down by Section 11 of the Act, which prescribes that he shall not, nor shall any of his officers, act under the Act for reward other than the salaries or remuneration which shall be fixed by the Treasury; that the Public Trustee may employ such solicitors, bankers, accountants, and brokers, or other persons as he may consider necessary, and that in determining the persons to be so employed he shall have regard to the interests of the trust, but subject to this shall, whenever practicable, take into consideration the wishes of the creator of the trust and of the other trustees (if any) and of the beneficiaries, either expressed or as implied by the practice of the creator of the trust, or in the previous management of the trust. It is further provided by the same section that the Public Trustee, if he is appointed as administrator, where if he were a private person a security bond would be required, shall not be required to give any security, but shall be subject to the same liabilities and duties as if he had given security.

Section 13 of the Act deals with the important question of the investigation and auditing of trust estates, and provides for the investigation and auditing of trust accounts by experts who may be agreed on by the persons

interested, and if they fail to agree, by the Public Trustee or some person appointed by him.

In accordance with Section 14 of the Act, which empowered the Lord Chancellor of England with the concurrence of the Treasury to make Rules for carrying into effect the object of the Act, Rules were framed, dated 29th November, 1907, which have now been superseded by Rules, dated 15th of April, 1912. It is not necessary to refer to these Rules in detail, but I may be permitted to call attention to certain points in which they supplement the Act itself.

The Rules define the phrase "trust instrument" in the Act as any instrument, Act of Parliament, or Order of Court by which a trust is created, and the expression "trust property" as all property subject to a trust, or comprised in an estate, which is proposed to be administered by the Public Trustee. The Rules declare that the central office of the Public Trustee shall be situate in London, and that branch offices may be established subject to the sanction of the Lord Chancellor, and that there shall be Deputy Public Trustees at any branch offices so established who shall be officers of the Public Trustee, and shall have the powers and perform the duties assigned to them by the Rules, and that their number shall be such as the Lord Chancellor, with the sanction of the Treasury, may from time to time prescribe. I believe that up to the present no branch offices have been opened nor has any Deputy Public Trustee been appointed.

Rule 6 authorises the Public Trustee to accept any trust created by any trust instrument or arising upon an intestacy; and to accept any of the offices of guardian of an infant beneficiary (as part of the trustee of any trust) or the office (where the execution of a trust is involved therein) of agent or attorney for any person, and to accept by the name of the Public Trustee probates or letters of administration of any kind, to accept as Custodian Trustee any trust created by any trust instrument and to receive monies paid in children's compensation cases, subject to the restriction that he shall not accept the trusts of any instrument made solely by way of security for money.

Sub-section 4 of Section 2 precluded the Public Trustee from accepting any trust which involved the carrying on or management of any business except in cases where he was authorised to do so by Rules to be made in pursuance of the Act. Rule 7 now defines the conditions under which he may act as Custodian Trustee of a trust which involves the management or carrying on of any business, viz.—(a) he shall not act in the management or carrying

on of such business, and (b) he shall not hold any property which exposes the holder to any liability except under exceptional circumstances and when he is satisfied that he is fully indemnified or secured against loss; and he may accept as ordinary trustee, under exceptional circumstances, a trust which involves the management or carrying on of any business, but upon the conditions that except with the consent of the Treasury he shall only carry it on (a) for a short time not exceeding eighteen months, and (b) with a view to sale, disposition or winding-up, and (c) if satisfied that it can be carried on without risk of loss.

The very important and useful procedure established by Section 3, sub-section 4, of the Act for administration of small estates, *i.e.*, estates under the capital value of £1,000, or estates exceeding that amount which the Court may consider could be more economically administered by the Public Trustee, is dealt with in Rule 15, which declares that the Public Trustee may without judicial proceedings take the opinion of the High Court upon any question arising in the course of an administration, and the duty of advising upon any such question is assigned by the Lord Chancellor to a Judge of the Chancery Division. I believe that Mr. Justice Joyce at present fulfils the function of Judicial Director to the Public Trustee. Any question arising on a trust may be submitted to the Judge in an informal manner, and the Judge may give such directions, without a formal hearing or verified evidence, as he may think desirable.

The important question of the investment of trust funds is dealt with in Rule 20, which authorises the Public Trustee to invest or retain invested money belonging to any trust or estate and coming to his hands in any investment authorised by the trust instrument or (if there is no trust instrument) authorised by law for the investment of trust funds and may if authorised by the trust instrument or otherwise by law retain any investment existing at the date of the commencement of the trust. Provided that he is not to invest in or hold any instrument in such manner so as to expose him to liability unless he is satisfied that he is fully indemnified against loss.

Rule 38 provides that the Accounts of the Public Trustee shall be audited, and the securities held by him verified from time to time by such person or persons as the Treasury may appoint, in accordance with regulations to be made by the Treasury.

Before referring in detail to the reports of the work of the Public Trustee annually submitted to Parliament it may be convenient that I should here refer to the fees

payable to the Public Trustee for the discharge of his services under the Act. These fees are of two kinds—Capital Fees and Income Fees. Capital fees are charged on the amount of the capital of the trust funds and are levied on such capital at two periods, viz., first, when the corpus of the funds comes under the control of the Public Trustee, and secondly, when by reason of the termination of the trust or the final distribution of the estate it emerges from such control. The income fees are charged on the collection and distribution amongst the persons beneficially entitled to it, of the annual income, whether dividends, rents or interest, arising from the Trust Estate. It will be understood from what was said in reference to Section 9 of the Act that these fees do not go to the Public Trustee personally, but are accounted for by him to the Treasury and are intended at least to be framed on such a scale as will suffice to render the Department of the Public Trustee a self-supporting concern and no more. The fees are regulated by the Public Trustee (Fees) Order, 1909, as amended by the Public Trustee (Fees) Order, 1912. By the former Order the fees chargeable by the Public Trustee were prescribed as follows:—

*Capital fees* in respect of the duties of the Public Trustee acting as ordinary trustee or executor or administrator or in the administration of a small estate under Section 3 of the Act: Upon the acceptance of the trust—

If the gross capital value of the trust property does not exceed £1,000—15s. per cent;

If such gross capital value exceeds £1,000—15s. per cent. up to £1,000.

5s. per cent. in respect of any excess of that value over £1,000, up to £20,000.

2s. 6d. per cent. in respect of any excess of that value over £20,000, up to £50,000.

1s. 3d. per cent. in respect of any excess of that value over £50,000.

Upon the termination of the trust by the withdrawal (whether upon distribution amongst the beneficiaries or otherwise) of any capital from the trust property—a similar fee.

On the sale of land forming part of the trust property—2s. 6d. per cent. on the purchase money.

When the Public Trustee acts as Custodian Trustee only of any trust, or as ordinary trustee of land settled in strict settlement, on the acceptance of the trust, one-half of the foregoing fee is payable, but a re-settlement of strictly settled land is not deemed to be a withdrawal of capital from the trust property for the purpose of entitling him to a fee.

On raising money under any trust or power—2s. 6d. per cent. on amount raised.

On investment of trust funds—10s. per cent. on the amount invested (such fee to include any sum paid for brokerage).

Upon the making of any investment of income in course of accumulation a fee at such rate not being higher than £1 per cent. of the income invested as the Public Trustee, having regard to the time and trouble involved, may determine in each particular case (such fee to include any sum paid for brokerage).

Upon any purchase of land, or any investment by way of mortgage of, or charge on, property—2s. 6d. per cent. on the amount advanced.

*Income Fees:—*

Upon the annual income of the trust property (except income in course of accumulation)—£2 per cent. up to £500.

£1 per cent. in respect of any excess of that income over £500 (with reduction to £1 per cent. where income is paid direct to or collected by the person entitled), and where the Public Trustee is acting in respect of land settled in strict settlement, the income fee shall be charged at such rate (not being higher than £1 per cent.) as the Public Trustee, having regard to the time and trouble involved may determine in each particular case.

The Public Trustee, moreover, is authorised to charge a special fee, subject to Treasury sanction, where the circumstances of the trust are such as to render his duties exceptionally onerous, and may make the payment of such fee a condition of his accepting the trust, and in like manner when his duties are likely to be exceptionally simple, he may, subject to the like sanction, remit any part not exceeding one-half of any fee; he is likewise authorised to commute any fee for a present payment, and where the income of any trust property is not liable to serious fluctuation agree to a fixed annual income fee in lieu of the income fixed by the Schedule, and he is authorised with the sanction of the Treasury to agree to any mode of payment of any fee which may seem to him just and reasonable.

The scale of charges was modified by the Public Trustee (Fees) Order, 1912, as regards the Income fees, which fixed the fees upon the annual income of the trust property up to £500 at £2 per cent., and £1 per cent. in respect of any excess of that income over £500, and up to

£2,000, and 10s. per cent. on any excess over £2,000, and provided that where income is paid direct to or collected by the person entitled, the rate shall be £1 per cent. in respect of income up to £2,000, and 10s. per cent. in respect of any excess over £2,000; and where in pursuance of a personal covenant in a trust instrument income is paid direct to the person entitled, or to his bank, without any intervention on the part of the Public Trustee, the income fee shall not exceed a higher rate than 10s. per cent.; and where the Public Trustee is acting in respect of land settled in strict settlement, the income fee shall be charged at such rate (not being higher than £1 per cent.) as the Public Trustee, having regard to the time and trouble involved, may from time to time determine in each particular case.

Having now examined in detail the provisions of the Public Trustee Act, 1906, the Rules prescribing its scope and framed for the guidance of the Public Trustee, and the fees which he is authorised to charge for his services under the Act, it is necessary to enquire how this Act, so long delayed, so strongly opposed, so carefully considered, so hesitatingly received, has proved itself in operation.

The Act was passed on the 21st of December, 1906, the Public Trustee office was opened on the 1st of October, 1907, and the Act came into force on the 1st of January, 1908. Since that time the Public Trustee has presented five General Annual Reports to Parliament; the last three made up to the 31st of March in each year, and by his courtesy in sending me a copy of his latest Report, dated the 8th inst., immediately after its presentation to Parliament, I am able to place before you to-night the record of the working of the Public Trustee's Department from the day when it opened its doors to the last day of March, 1913. The best tribute which can be offered to the efficiency of the Public Trustee and to the success of his Department is simply to state the figures abstracted from these five Reports. The first two Reports were made up for the years ending 31st December, 1908, and 31st December, 1909, respectively, but the third Report was made up for fifteen months, from 31st December, 1909, to 31st March, 1911, in order that the period reported on should coincide with the Parliamentary financial year and thus enable the work of the Department to be compared with the estimates voted annually, and the two subsequent Reports cover the periods to 31st March, 1912, and 31st March, 1913, respectively.

The following statement, compiled from the five Reports, shows the work accomplished by the Public Trustee from the opening of his Department on the 1st January, 1908, to the 31st December last:—

	1908—3 Months to 31, 3, 0'8.		1908-09.		1909-10.		1910-11.		1911-12.		1912-13.		Totals.	
	No. of Cases.	Value.	No. of Cases.	Value.	No. of Cases.	Value.	No. of Cases.	Value.	No. of Cases.	Value.	No. of Cases.	Value.	No. of Cases.	Value.
		£		£		£		£		£		£		£
Ordinary Trusts ..	37	298,294	308	2,465,020	467	3,813,326	611	4,933,344	715	6,251,396	967	8,671,443	3,105	26,432,823
Custodian ..	2	31,522	10	161,590	5	80,805	10	150,610	5	54,339	12	114,923	44	593,789
Executorship and Administrator- ship .. ..	5	46,445	43	499,427	93	1,080,166	151	1,441,928	165	2,289,712	221	3,257,529	678	8,615,207
Compensation and Small Estates, under Section III. .. ..	16	7,456	16	6,686	49	10,584	103	21,248	164	30,518	161	23,276	509	99,768
Miscellaneous Cases	3	600	4	800	8	4,310	2	1,511	1	350	3	364	21	7,935
	63	384,317	381	3,133,523	622	4,939,191	877	6,548,641	1,050	8,626,315	1,364	12,067,535	4,357	35,749,522

VALUE.		
£		
Total number of Cases accepted ..	4,357	35,749,522
Deduct number of Cases distributed ..	284	3,610,185
Number of Cases now current ..	4,073	32,139,337

The fees received during the five years and three months in which the Department has been in existence has been summarised as follows:—

—	1908. 3 months.	1908-9. 12 months.	1909-10. 12 months.	1910-11. 12 months.	1911-12. 12 months.	1912-13. 12 months.	Total to 31 : 3 : 1913.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Capital Fees :—							
On acceptance	496 11 3	4,725 5 9	11,750 16 10	16,006 14 10	19,847 11 1	22,805 7 9	75,632 7 6
On distribution	—	151 13 9	1,166 13 4	1,309 12 5	1,836 6 4	2,670 1 0	7,134 6 10
Income Fees ..	0 9 3	383 6 10	1,349 18 6	3,702 18 0	6,558 15 2	10,447 6 11	22,442 14 8
Investment Fees	5 6 2	688 4 6	2,222 8 6	2,982 11 6	4,910 16 5	6,533 5 3	17,342 12 4
Audit Fees ..	—	14 10 0	23 19 0	32 10 0	28 8 0	20 4 0	119 11 0
Miscellaneous Re- ceipts.	—	112 4 1	126 5 4	286 9 3	587 11 6	639 15 7	1,752 5 9
TOTAL ..	502 6 8	6,075 4 11	16,640 1 6	24,320 16 0	33,769 8 6	43,116 0 6	124,423 18 1



Moreover it is stated that numerous applications have been received by the Public Trustee from intending testators requesting that he would act as executor of their wills, and intimating their intention to appoint him as executor or trustee. The number of such applications up to the 31st March last was 2,760, and it is estimated in the last Report from the particulars furnished by intending testators that the amount of property involved would amount to £54,665,791.

It will be remembered that the office was intended to pay itself, but not to make profit, and that the fees were to be so adjusted that they should cover all the working expenses, but should not exceed what was necessary for the due administration of the Department, and it will be seen from the following table that for the last four years there has been an annually increasing surplus, the profit for the year ending 31st December, 1910, being £1,521, for the following year, £2,730, for the year ending 31st March, 1912, £3,967, and for the year ending 31st ulto, £5,543.

[TABLE

	6 months to 31st March, 1908.	12 months to 31st March, 1909.	12 months to 31st March, 1910.	12 months to 31st March, 1911.	12 months to 31st March, 1912.	12 months to 31st March, 1913.	Total from 1st October, 1907, to 31st March, 1913.
	£	£	£	£.	£	£	£
Salaries .. .. .	2,032	5,876	10,531	15,916	22,488	28,526	85,369
Postage, Travelling, and In- cidentals.	166	598	898	1,010	1,322	1,594	5,588
Rent, Furniture, &c. ..	543	1,175	2,337	3,477	4,025	4,500	16,057
Stationery .. .. .	521	734	1,203	1,021	1,371	1,600	6,450
Cost of Audit .. .. .	50	90	150	160	590	1,350	2,390
Payments made in respect of technical breaches of trust.	—	—	—	7	6	3	16
	3,312	8,473	15,119	21,591	29,802	37,573	115,870
Fees .. .. .	502	6,075	16,640	24,321	33,769	43,116	124,423
Deficiency .. .. .	2,810	2,398	—	—	—	—	—
Surplus .. .. .	—	—	1,521	2,730	3,967	5,543	8,553

Turning to the class of investments which the Public Trustee has accepted, it is right to point out that the apprehensions which were sometimes expressed that trust monies coming under the control of the Public Trustee would be drastically realised without regard to depreciation in the financial market, and re-invested in Government Stock only, have proved to be without foundation. The Public Trustee may hold any investments authorised by "the investment clause" in his trust deed, and he may invest or retain invested moneys belonging to any trust or estate and coming to his hands in any mode of investment expressly or impliedly authorised by the deed of trust, or, if there is no trust instrument, authorised by law for the investment of trust funds, and may, if authorised by the trust instrument or otherwise by law, retain any investment existing at the date of the commencement of the trust.

The Public Trustee is not restricted to trust investments any more than a private trustee when the terms of his trust deed confer upon him a wider range of investment, and he is authorised to hold trust property in any form of investment sanctioned by the trust deed.

The Reports of the Public Trustee contain a statement showing the various securities in which moneys under his control have been invested which I have ventured to include in this paper.

The following is a classification of investments held on the 31st March, 1912, and 31st March, 1913, respectively:—

	Total Stocks held 31st March, 1912, Nominal Value.	Total Stocks held 31st March, 1913, Nominal Value.
	£ s. d.	£ s. d.
British Funds .. .. .	2,026,191 9 1	2,614,794 18 10
Corporation Stocks— United Kingdom .. .. .	1,343,050 15 5	1,982,297 5 8
Colonial Government Securities and Colonial and Foreign Corporation Stocks.	2,750,886 1 9	4,357,153 19 9
Foreign Stocks, Bonds, &c. ..	580,627 0 8	785,453 7 5
Railways—Home .. .. .	4,614,488 15 0	6,666,237 14 0
Railways—British Possessions	1,342,364 17 4	2,064,156 7 11
Railways—Foreign .. .. .	1,442,466 2 4	2,358,656 9 2
Commercial and Industrial ..	833,437 8 2	1,279,152 17 0
Gas, Water, Electric- Light, Canals and Docks, Shipping, Telegraph and Telephone, and Tramways.	1,381,575 16 2	1,321,833 7 10
Banks, Insurance, Financial Trusts, and Financial Land and Investment, &c.	795,784 0 4	2,416,065 4 9
	17,110,872 6 3	25,845,801 12 4
Mortgages, Freehold Property, Leasehold Property, and Ground Rents, valued at	3,945,468 4 9	5,600,185 0 11
	£21,056,340 11 0	31,445,986 13 3

The Public Trustee in his 4th Report calls attention to certain amendments which, from the experience gained in the practical administration of trusts and estates since the Act came into operation, appear to him to be desirable in the interests of the public. Most of these suggested amendments are of a somewhat technical character, but as they may possibly be the subject of legislation in the future I think it well to call attention to them.

It is pointed out by the Public Trustee that in some cases a trust deed contains a provision that the body of trustees shall not be less than a certain number, say three, and that in such cases where the trustees desire, with the sanction of the beneficiaries, to transfer the trust property to the Public Trustee as sole trustee, it is not possible to do so, having regard to the condition that a minimum number of trustees shall be appointed, and in such case the Public Trustee can only be appointed as one of the three trustees. Manifestly, the object of requiring that the trust property should be held in two or more names was to preclude its becoming vested in a sole trustee with the possibility that such sole trustee, having all the property in his own name, might abuse his trust and misapply the property. Such an eventuality could not arise in a case where the sole trustee was the Public Trustee, whose integrity is guaranteed by the State, and it is therefore suggested that the law should be amended by providing that in the case of old settlements created prior to the Public Trustee Act the provision that the trust estate should not be vested in less than a certain number of trustees should only apply to private trustees, and that the appointment of the Public Trustee should be authorised in all cases irrespective of any direction as to the number of trustees.

Again, under the present law the Public Trustee cannot be appointed as an additional trustee where the trust is what is known as "full," that is, where the original number of trustees are still in being. It is now only possible to avail of his services where a vacancy occurs in the number of trustees by death or resignation. It has been suggested that by some sort of legal juggle this rule may be evaded by the trustees appointing the Public Trustee and retiring from the trust, with the result that the Public Trustee becomes a sole trustee, and he in his turn can then appoint the two trustees who have retired to fill the vacancy thus created. I need hardly point out that this course is open to objections on more grounds than those of the expense and trouble involved. It is desirable that the Act should be amended by declaring that the Public Trustee should be capable of being appointed as an additional trustee notwithstanding that the number of trustees in the trust has not been reduced below the number originally appointed.

The Public Trustee suggests another amendment, viz., that where all the beneficiaries, either by themselves or their guardians, desire that the Public Trustee should be associated with the trust, it should then be *obligatory* upon the trustees of such a trust to appoint the Public Trustee to act with them. I confess that several objec-

tions present themselves to my mind in reference to this suggestion, not the least of which is that the proposal is dangerously near to the enactment of a compulsory appointment of a Public Trustee, a system which, I think, is as much to be deprecated by any person desirous of the success of the Trustee Department as by any individual opposed to the extension of officialism in these countries. The position of a private trustee who, however conscientious and efficient he may be in the discharge of his trust duties, is to have the menace of the Public Trustee held over him, would be intolerable, and such a clause would introduce a new and highly objectionable element of discord into the relations between trustees and beneficiaries. If trustees fulfil the duty imposed upon them by the trust conscientiously and efficiently, it is most undesirable that they should be interfered with under any circumstances by the Public Trustee. If their conduct in the trust is dishonest or inefficient, there are various ways open to beneficiaries to protect themselves and to bring the trustees to a sense of their duty without adopting the suggestion referred to in this Report.

The Public Trustee also suggests in his Report that the Act should be amended in such a way that for the purpose of receiving the purchase money of trust property settled under a will for the benefit of a widow for life with remainder to her children, the Public Trustee should be deemed to be a trustee under the Settled Land Acts. Under the law as it stands at present, assuming that the life tenant receives an offer for the sale of the property, and desires to sell it with a view to reinvestment of the property, he or she cannot carry out the sale unless trustees are appointed to receive and hold in trust the purchase money. This is the case even where the Public Trustee happens to be the widow's trustee. The suggested amendment would have the effect of authorising the Public Trustee to receive the money, thus obviating the expense and trouble of obtaining an order of the Court appointing him a trustee for the special purposes of the Settled Land Act.

It is further pointed out that the powers of the Public Trustee do not appear to be sufficiently elastic in the case of infants. It is doubtful whether the Public Trustee has power under the Act to receive a legacy bequeathed to an infant, and it has been assumed that he has no power without the sanction of the Court to make advances for the maintenance or education of an infant, unless an express power for this purpose is contained in the trust instrument.

In the Acts regulating the Public Trustee in New Zealand, ample powers are conferred upon him to apply any portion of the capital for the maintenance or education of an infant under the guardianship of the Court, and the Public Trustee offers the suggestion that similar powers should be conferred upon him.

In attempting to sum up the result of the five Reports issued by the Public Trustee, I think I may say in the first place that the figures contained in these Reports are the best arguments in proof of the utility of this Department. The record of progress in the office is so remarkable as to demonstrate that in England there was a very distinct need for the appointment of a permanent recognised Government official, willing to undertake the administration of trusts and authorised to do so, whose stability was guaranteed by the State and whose management was under Government control and subject to Governmental audit. The fact that the Public Trustee never dies, never becomes legally incapable of acting in the trusts by senility, disease, insolvency, lunacy, or absence beyond the seas, and that therefore his management is freed from the drawbacks of the recurring expenses of appointing new trustees, or from the danger that trust property may fall into the hands of incapable or dishonest trustees, has proved a strong inducement to the public to avail of the services of a Public Trustee, and shows that he undoubtedly supplies in the common phrase a "long felt want" in England. That the success of the office has falsified the gloomiest prophecies, and more than realised the most sanguine hopes that were claimed for it, is beyond question. This success is due entirely to the energy, administrative ability, and practical common-sense of the Public Trustee, and to his happy capacity for collecting around him an efficient and eager corps of assistants hardly less capable than himself. He has achieved a great triumph in justifying a difficult experiment which might easily have turned out a disastrous failure.

I have said that the Public Trustee never dies. It should, however, be borne in mind as a common experience of human life that men decay mentally even when their physical powers remain unimpaired. It is quite possible that in the course of years mental dissolution may fall on some future occupant of the office of Public Trustee. It is alleged against other Public Offices that they have ceased to supply the needs which called them into being, that their administration is dilatory, inefficient, reactionary, unimaginative, hampered by petty rules of their own making, bound by red tape of their own weaving.

Should such a condition of inefficiency, timidity or apathy fall upon the Department of the Public Trustee—of course, long after the present efficient and excellent officials have passed away—as it has been alleged to have taken possession of other great Departments of the State, the condition of the widow and the orphan, of beneficiaries wanting to obtain advancements on their shares of properties to enable them to start in the battle of life, of young ladies desirous of receiving their marriage portions to enable them to make suitable marriages and thus obtain a settlement in life, or of minors whose education is neglected and whose interests are not zealously safeguarded, will be infinitely worse than the worst which could happen under the system which has now existed for so many generations in these countries of voluntary trusteeship.

I now turn to the question of the Public Trustee in our own country. Five years before the Public Trustee Act, 1906, came into force in England, a Public Trustee was called into existence in this country for a particular purpose and to discharge special functions as part of the scheme for settlement of the land question under the Irish Land Act of 1903. Mr. George Wyndham, the then Chief Secretary, recognised the necessity as part of his scheme of selling entire estates rather than holdings, of offering special facilities for the sale of settled estates. He recognised that where estates were in settlement, although the trustees might continue under the existing system which involved no trouble in the performance of their trust, they would be either unwilling or unable to deal with the problem of the reinvestment of the purchase money when the estate was sold. He perceived that, unless the large number of settled estates could be brought under the operation of the Land Purchase system, the success of the Land Purchase Act could not be assured, and that settled estates—a large proportion of the estates in Ireland—could not be sold unless special facilities were provided to deal with the purchase monies. It was also felt that in various cases where the appointment of trustees became necessary to receive the purchase money, it might be difficult in the ever-changing condition of Irish life to get persons, friends or relatives of the family, willing to undertake the burden of a new trust. As part of the scheme of Land Purchase, an official was therefore called into existence under Section 52 of the Irish Land Act, 1903 (3rd Ed. VII., cap. 37), which declared that there should be a Public Trustee, who should be a Corporation under that name with perpetual succession and an official seal, and that he might sue and be sued under



that name. The section further provided that he should not incur any liability by reason of any act or thing done by him in good faith in pursuance of the provisions of the Act; that he might hold property jointly with any person or Corporation, aggregate or sole, and under that name might be entered in the books of any company or person as holder either alone or jointly with any person of stocks, shares, or securities entered in such books. The section also enacts that where any settled land had been purchased by means of an advance under the Land Purchase Acts, and there was no trustee of the settlement, the Public Trustee might be appointed by the Land Commission to be trustee of the settlement, and that where the trustees of any settlement refused or neglected to invest the purchase money in authorised securities, the Land Commission might substitute the Public Trustee for such trustees, and the trustees of any settled lands purchased by means of an advance under the Land Purchase Acts might apply to the Land Commission to be discharged from their trust, and might have the Public Trustee appointed in their stead.

The only other section of the Act which calls for reference in connection with the duties of the Public Trustee is Section 39, which makes the Public Trustee's relation to Trinity College a distinct feature of his office. This section provides that there shall be paid out of the Ireland Development Grant (subject to the provisions of Section 28) £5,000 a year for the account of Trinity College, Dublin, to be applied by the Public Trustee in indemnifying the College from any loss of income arising from the redemption under the Land Purchase Acts of any superior interest owned by the College, *i.e.*, the difference between the annual income produced by the superior interest and the annual income of the investment in which the redemption money of such superior interest is invested shall be provided out of this sum of £5,000 a year. And the surplus of the £5,000 which in any year is not required to make good the loss of income to the College, may with any accrued interest be applied in any subsequent year to make good future loss; and the section further provides that the investment of the redemption money of any superior interest owned by the College shall be made and may only be varied in accordance with the advice of the Public Trustee.

Rules have been made in pursuance of Section 52 regulating the discharge of the duties of the Public Trustee, but they do not appear to call for any special reference. The Irish Public Trustee is not entitled to charge for any services rendered by him as trustee of Settled Estates sold

under the Land Acts, his salary being paid out of money provided by Parliament, and his officials remunerated and the expenses of the office of Public Trustee being paid as part of the expenses of the Land Commission. Acting on the same principle as the Public Trustee in England, the Irish official avails of the services of the solicitor connected with the trust estate, but in his choice of stock-brokers he is restricted for the purpose of investing the trust funds to "the twelve Court brokers."

The Public Trustee in Ireland has not considered it desirable to follow the example of his English brother in publishing annual reports of the working of his office. As it has been my endeavour to place all the information bearing on this question as fully as possible before this Society, I am sorry that I have not been able to obtain any adequate particulars of the work of the Irish Trustee's office. It is to be regretted that no statement has been issued either in the annual Estates Commissioners' Reports or in any other official form which affords any information as to the Irish Public Trustee's Department. Much of the opposition offered to the creation of the English Trustee has been overcome by the frank and excellent tone of his annual Reports, and it is difficult to understand why information which the English Public Trustee freely places year after year before the public should not be equally available in respect of the Irish Trustee's Department. I think you will agree with me when I say that if there is one Department in the State from which the Public has a right to expect the largest measure of candour, it is that of the office of Public Trustee, especially here in Ireland, where that Department is charged with the administration and application of Public monies as well as private trusts. I venture to express the hope that these statistics will in future be placed at the service of the Irish Public.

It is hardly necessary to call attention to the fact that the functions of the Public Trustee in Ireland are strictly confined to the acceptance of trusts attaching to property sold under the Irish Land Acts, 1903 and 1909, and that he is not authorised or empowered to act as trustee for any other purpose or in connection with any other trust.

Although I have trespassed, I fear, overlong on your patience in reviewing the history and procedure of the Public Trustees of England and of Ireland, it may not be out of place, in bringing this paper to a close, to discuss some general considerations in reference to the question of the creation of the office of a Public Trustee in this country. Whoever considers this question will do well to bear in mind the essential differences, social and

economic, between England and Ireland. I do not think I overstate the case when I say that the feeling is growing stronger every day among all sections of the community in Ireland that the condition of things which necessitates special legislation in England is often non-existent or at least exists in a much smaller degree in Ireland; and further that it is entirely undesirable that schemes of legislation necessary and desirable in England should be applied to this country on the principle that what is necessary or good for England must therefore be necessary or good for Ireland. Legislation for each country should be framed with regard to what is really required in and suitable to the needs of that country alone. In its enormous and ever-increasing population, in its varied activities, in its complicated commercial and social life, in its large individual wealth, in its industrial circumstances, England, even yet, stands alone. The legislation which these conditions force upon England offers no criterion by which the legislative needs of Ireland can be tested. The age of industrialism, running its course through well nigh a century, changed England into an industrial, commercial country of great wealth, both national and individual, and in its turn has forced her to accept the special conditions and ideals which the reign of industrialism imposes. On the other hand, Ireland is, and, so far as we can see, must continue yet for a long time, to be, at least to a considerable extent, an agricultural, unindustrial community, the economic system of which ought to be framed on quite different and much more modest and simple lines. This essential economic difference has its reflex in the social relations of the members of the community. The rapidly acquired fortunes of commercial England involve a multiplicity of trusts, many of them of great magnitude and much complexity. Its industrial competition absorbs the majority of its most capable citizens in the pursuit of their own business to the exclusion of all other interests, and precludes them from attending to any less absorbing concerns, even the discharge of trust duties which they have undertaken to perform. These conditions created the practice in some cases of delegating the administration of a trust to a firm of solicitors, and where, as in certain notable instances, the trust funds were misapplied, much loss and unmerited suffering was inflicted on innocent parties. These circumstances have called into being and gone far to justify the establishment in England of such an office as that of Public Trustee. Moreover, for what I may for want of a better term describe as "the isolation of the parvenu"—the condition of the successful business man who has

acquired wealth without having acquired friends, and whose fortune has removed him from the class to which he belonged without securing him a recognised place in the class to which his suddenly acquired wealth has raised him—the need of such an official as a Public Trustee was beyond question. It may well be doubted whether any condition of affairs even remotely similar to this exists in Ireland. I do not think that much difficulty is experienced in this country in securing the services of efficient, conscientious and solvent relations or friends to fulfil the duties of trusteeship. The isolating triumph of commercial supremacy has not yet been felt in this country. We have not yet become so absorbed in business as to have lost the inclination or to have bartered the small amount of time necessary to devote to these offices of kinship and friendship. The intimate interconnection of family life amongst all classes in this country—connecting as it does even still its various members into something resembling a clanship—provides a group of individuals for the most part conscientious, efficient, solvent, and interested, from which it is always possible to select suitable trustees. What is true in reference to “the monied classes,” the landed gentry—or such of them as remain—the wealthy merchants, the persons of acquired or inherited property, is likewise true of persons of humbler position and smaller wealth. When in this country testators are reviewing the relatives and friends to whom they may safely confide the administration of their property and the interests of those whom they are most concerned to benefit, they have not seldom found in their clergymen, to whatever religious denomination they may belong, executors and trustees in whose honesty, disinterestedness, and efficiency, they may have perfect confidence, men who are known to have no object to gain, who are precluded by the very exercise of their calling from any inducement to misapply or divert the trust funds, and who, moreover, bring to the discharge of their duties that intimate knowledge of the intentions and wishes of the testator and that personal interest in the objects of his benevolence, which no public official however experienced and however capable, could possibly feel.

It may therefore be considered as a matter of grave doubt whether in the circumstances of this country and having regard to the social and economic conditions of its people, there is, at the present time, any real need in Ireland among any large body of the community for the establishment of the office of a Public Trustee. In this connection it should be borne in mind that the expenses of such an office must be considerable. In the year up to

the 31st March last the office expenses of the English Public Trustee amounted to £37,500, and although, of course, the Public Trustee's office in this country would necessarily have to be managed on much more moderate lines, it is obvious that the fees which would be charged on the administration of trust properties, coming as an addition to the heavy Crown duties which have been growing so alarmingly during the past few years, would prove a very serious tax on the small properties of this country, and would bear especially heavily on the annual income of widows and orphans whose sole support is so frequently an invested fund of very modest proportions incapable of bearing any additional burdens.

As the operations of a Public Trustee in this country would obviously be on a much more limited scale, and as his receipts would be very much less than in England, it is beyond question that the fees which he would have to charge to defray the expenses of his department would be proportionately very much larger both on Capital and Income. If, however, Irish public opinion comes to the conclusion that what has been so successful in England must necessarily repeat its success in Ireland, and that, even under conditions which are so far different and under circumstances which bear so little analogy to each other, a Public Trustee is necessary, there are certain primary conditions which would appear to be essential for the success of such an experiment.

Two suggestions have been made. One is that the Land Purchase Public Trustee, called into being for a certain object to fulfil the purposes of a particular Act, should be extended for all the purposes in which a Public Trustee could undertake any trust; the other is that the Public Trustee of England shall be extended to and authorised to act for Ireland. Neither of these proposals are likely to meet with general acceptance.

From the point of view of utility and efficiency it would appear to be open to very grave doubt whether the office of the Land Purchase Public Trustee, which has been for ten years exclusively limited to the restricted sphere of duties involved in the acceptance and reinvestment in certain authorised securities of the purchase monies of Settled Estates, which was called into existence for a particular purpose and for the benefit of a limited and rapidly decreasing class, which has heretofore enjoyed no measure of public popularity or been in any way concerned with the administration of general trusts or with the discharge of any duties touching the welfare of the public as a whole, is likely, even under the most favourable conditions, to cope successfully with the endless

variety of human interests of all classes in the community, which would require to be dealt with promptly, efficiently, sympathetically, and self-reliantly, in the office of a general Irish Public Trustee.

The essential condition of the success of a Public Trustee in this country must be his intimate and personal knowledge of all the conditions of the life of the Ireland of to-day, and of the classes and sections of the population which go to make up the Irish people. It is essential for the efficient administration of his trusts, that he should have an intimate knowledge of all phases of Irish life, of its industries and commerce, of its agriculture and farming operations, and the various methods of trading and industries; that the interests and difficulties of the country shopkeeper, the small trader, and the farmer, should be as familiar to him as those larger problems which confront the manufacturer or the large wholesale trader whose connections embrace a province or even perhaps the entire country. There are certain phases of our economic existence which would call for special familiarity or at least special interest on his part. The duties of Public Trustee could hardly be efficiently discharged by any Irishman who was not mindful of the fact that the agricultural interests of Ireland and the encouragement so far as may be of our manufactures and industries, large and small, are matters of the utmost importance alike to those whose financial interests are bound up with them, and to the people as a whole. The problem of trust investments of various sorts, of banking, transit, railway facilities, and many others equally delicate and intricate, would at least to some extent affect the administration of the duties of a Public Trustee. It is therefore not too much to demand that if this Department is to be established it shall frame its policy and devote its efforts to promote the interests and welfare of Ireland alone.

Nor can the human element in this question be left out of consideration. An Irish Public Trustee would have to have regard not only to the views and sentiments, but even to the idiosyncrasies and peculiarities of those persons with whose property he is entrusted, and of whom he is supposed to be the financial guardian. There are more things in Ireland than are thought of in the philosophy of a Public Trustee's office, yet, unless such things, however elusive, however difficult to define or set down in a blue book, are recognised and provided for and deferred to, another expensive and useless office will have been imposed on our Irish financial system.

It is not too much to demand that if the office

of a Public Trustee is to be set up in Ireland, that this Department shall be established with particular and exclusive regard to Irish ideas and Irish conditions, that it shall be controlled and managed by Irishmen, that it shall frame its policy to promote the economic and financial interests of this country, so far as it can do so within the limits of its trusts, and that it shall recognise that one of its most essential functions should be to safeguard the small trust estates of the poor, rather than to provide a state-equipped administrator for the trusts of those whose influence and wealth enables them with little trouble to secure the services of voluntary trustees. I venture to think that it is only by an observance of these conditions that the creation of such an office in this country will be acceptable to the Irish public.