

TRINIDAD AND TOBAGO.

No. 33—1932.

I ASSENT,

[L.S.]

A. C. HOLLIS,
Governor.

14th December, 1932.

AN ORDINANCE regulating the appointment and powers of trustees in relation to property of infants and absentees, and for other purposes connected therewith.

[14th December, 1932.]

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Trustee Short title.
(infants' and absentees' property) Ordinance, 1932.

2.—(1) Where an infant or a person out of the Colony is absolutely entitled under the will or on the intestacy of a person dying before or after the commencement of this Ordinance (in this sub-section called "the deceased") to a devise or legacy, or to the residue of the estate of the deceased, or any share therein, and such devise, legacy, residue or share is not under the will, if any, of the deceased, devised or bequeathed to trustees for the infant or the person out of the Colony, the personal representatives of Power to appoint trustees of property belonging to infants or to persons out of the Colony.

[Price 3d.]

the deceased may appoint the Public Trustee, a trust corporation or two or more individuals not exceeding four (whether or not including the personal representatives or one or more of the personal representatives), to be the trustee or trustees of such devise, legacy, residue or share for the infant or the person out of the Colony, and may execute or do any assurance or thing requisite for vesting such devise, legacy, residue or share in the trustee or trustees so appointed.

On such appointment the personal representatives, as such, shall be discharged from all further liability in respect of such devise, legacy, residue or share, and the same may be retained in its existing condition or state of investment, or may be converted into money, and such money may be invested in any investment authorised by the Trustee Ordinance, Cap. 50.

(2) Where a personal representative has before the commencement of this Ordinance retained or sold any such devise, legacy, residue or share, and invested the same or the proceeds thereof in any investments in which he was authorised to invest money subject to the trust, then, subject to any order of the Supreme Court made before such commencement, he shall not be deemed to have incurred any liability on that account, or by reason of not having paid or transferred the money or property into court.

Power to
apply income
for
maintenance
and to
accumulate
surplus income
during a
minority.

3.—(1) Where any property is held by trustees in trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interests or charges affecting that property—

(i) during the infancy of any such person, if his interest so long continues, the trustees may, at their sole discretion, pay to his parent or guardian, if any, or otherwise apply for or towards his maintenance, education, or benefit, the whole or such part, if any, of the income of that property as may, in all the circumstances, be reasonable, whether or not there is—

(a) any other fund applicable to the same purpose; or

(b) any person bound by law to provide for his maintenance or education; and

- (ii) if such person on attaining the age of twenty-one years has not a vested interest in such income, the trustees shall thenceforth pay the income of that property and of any accretion thereto under sub-section (2) of this section to him, until he either attains a vested interest therein or dies, or until failure of his interest :

Provided that, in deciding whether the whole or any part of the income of the property is during a minority to be paid or applied for the purposes aforesaid, the trustees shall have regard to the age of the infant and his requirements and generally to the circumstances of the case, and in particular to what other income, if any, is applicable for the same purposes ; and where trustees have notice that the income of more than one fund is applicable for those purposes, then, so far as practicable, unless the entire income of the funds is paid or applied as aforesaid or the Supreme Court otherwise directs, a proportionate part only of the income of each fund shall be so paid or applied.

(2) During the infancy of any such person, if his interest so long continues, the trustees shall accumulate all the residue of that income in the way of compound interest by investing the same and the resulting income thereof from time to time in investments authorized by the Trustee Ordinance, Cap. 50, and shall hold those accumulations as follows :—

(i) If any such person—

(a) attains the age of twenty-one years, or marries under that age, and his interest in such income during his infancy or until his marriage is a vested interest ; or

(b) on attaining the age of twenty-one years or on marriage under that age becomes entitled to the property from which such income arose in fee simple, absolute or determinable, or absolutely, or for an entailed interest ;

the trustees shall hold the accumulations in trust for such person absolutely, but without prejudice to any provision with respect thereto contained in any settlement by him made

under any statutory powers during his infancy and so that the receipt of such person after marriage and though still an infant, shall be a good discharge; and

- (ii) In any other case the trustees shall, notwithstanding that such person had a vested interest in such income, hold the accumulations as an accretion to the capital of the property from which such accumulations arose, and as one fund with such capital for all purposes, and so that, if such property is settled land, such accumulations shall be held upon the same trusts as if the same were capital money arising therefrom;

but the trustees may, at any time during the infancy of such person if his interest so long continues, apply those accumulations, or any part thereof, as if they were income arising in the then current year.

(3) This section applies in the case of a contingent interest only if the limitation or trust carries the intermediate income of the property, but it applies to a future or contingent legacy by the parent of, or a person standing *in loco parentis* to, the legatee, if and for such period as, under the general law, the legacy carries interest for the maintenance of the legatee, and in any such case as last aforesaid the rate of interest shall (if the income available is sufficient, and subject to any rules of court to the contrary) be five pounds per centum per annum.

(4) This section applies to a vested annuity in like manner as if the annuity were the income of property held by trustees in trust to pay the income thereof to the annuitant for the same period for which the annuity is payable, save that in any case accumulations made during the infancy of the annuitant shall be held in trust for the annuitant or his personal representatives absolutely.

Power to
apply capital
for
advancement.

4.—(1) Trustees may at any time or times pay or apply any capital money subject to a trust, for the advancement or benefit, in such manner as they may, in their absolute discretion, think fit, of any person entitled to the capital

of the trust property or of any share thereof, whether absolutely or contingently on his attaining any specified age or on the occurrence of any other event, or subject to a gift over on his death under any specified age or on the occurrence of any other event, and whether in possession or in remainder or reversion, and such payment or application may be made notwithstanding that the interest of such person is liable to be defeated by the exercise of a power of appointment or revocation, or to be diminished by the increase of the class to which he belongs :

Provided that—

- (a) the money so paid or applied for the advancement or benefit of any person shall not exceed altogether in amount one-half of the presumptive or vested share or interest of that person in the trust property ; and
- (b) if that person is or becomes absolutely and indefeasibly entitled to a share in the trust property the money so paid or applied shall be brought into account as part of such share ; and
- (c) no such payment or application shall be made so as to prejudice any person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied unless such person is in existence and of full age and consents in writing to such payment or application.

(2) This section applies only where the trust property consists of money or securities or of property held upon trust for sale, calling in, and conversion.

5. All moneys which at the commencement of this Ordinance are held by the Government either in the Treasury or in the Post Office Savings Bank on account of payments made under the authority of sections 23 and 24 of the Estate Duty Ordinance, Cap. 208, or of the Legacies (payment into Treasury) Ordinance, 1931, (No. 35 of 1931)

Transfer of
certain
moneys to
Public
Trustee.

shall be transferred to the Public Trustee for account of the several beneficiaries respectively for which they were paid.

The Public Trustee shall thereafter be responsible for the further administration of such moneys in like manner as if he were specially appointed for the purpose.

Repeal.

6. Sub-sections (4) and (5) of section 43 and the whole of section 44 of the Conveyancing Ordinance, Cap. 162, and the Legacies (payment into Treasury) Ordinance, 1931, are hereby repealed.

Passed in Council this second day of December, in the year of Our Lord one thousand nine hundred and thirty-two.

J. W. DAY,
Clerk of the Council.