

it is specially authorized to do so by the legislature. I know it is done in some cases, because a Bill was passed a few years ago in the interests of the Toronto General Trusts Corporation giving that corporation the power to be appointed tutor in the province of Quebec. The prothonotary has the power of making some appointments of that kind.

Mr. OSLER. He would be no judge of securities, would he?

Mr. BRODEUR. Generally when the prothonotary acts in that way he sends valuers to ascertain the value of the property.

Mr. OSLER. That would come under the duties of the judge. This gives him power to order investments.

Mr. BRODEUR. As a matter of fact it goes very far.

Mr. R. L. BORDEN. How would it do to strike out the word 'prothonotary' and say:

Other lawful authority in respect of any trust.

Because I think the words—

Order, judgment or decree of a court.

—should have application only to the particular judgment in Quebec.

Mr. FIELDING. I think if you say that it should be left to the court or judge you leave it to a responsible party.

Mr. R. L. BORDEN. Very well, that suits me, except that I think you should put in:

With respect to any trust,

What I mean is that you do not want to assume that a court or judge is to have a general power of fixing the class of securities or trusts generally. The judge may have power under the terms of a conveyance or under the terms of a will to designate certain securities as those in which investments may be made. You do not want any more than that here. It would do to have it:

By the order, judgment or decree of a court or judge in respect of any trust.

Mr. BRODEUR. That, as a question of fact, it should not be left to the discretion of the judge. The lawyer declares in what mortgage or in what security the money is to be invested, and I think we should not leave to the judge or privy court the authority to extend that to something else. I think it would be advisable then to strike out the last words, all the words after the word 'trust.'

Mr. R. L. BORDEN. Yes, I am inclined to agree.

Mr. DEPUTY SPEAKER. Mr. Fielding moves:

To strike out all the words after 'trust' in subsection 'd' (now subsection 'c') of section 11

Subsection as amended, agreed to.

On subsection 2 of section 11,

Nothing in this section shall prevent the company from holding securities of any other kind which form or are part of any trust estate which comes into its hands, and it may hold such securities subject to the trusts and legal obligations attached thereto, but in case of the realization of any portion thereof the proceeds shall be invested as herein directed unless the will, deed, order or instrument creating the trust has provided otherwise.

Mr. OSLER. The only question about that, is that if funds get into the hands of a trust company without a will or without a trust, for instance, in an estate having varied securities that clause enables the trust company to hold the securities for all time to come. I know that in the case of the Toronto General Trusts Company, at present, if they have securities of this kind in their hands, they consider that they are bound by the law to convert them in a year or two into trust securities. But this gives them discretionary power to hold any securities that come into their hands for all time. They are not bound to apply the trust law to an estate of the kind I have referred to that comes into their hands.

On section 11,

The moneys and securities of any such trust shall always be kept distinct from those of the company, and in separate accounts, and so marked for each particular trust as always to be distinguished from any other in the registers and other books of account to be kept by the company, so that at no time shall trust moneys form part or be mixed with the general assets of the company; and the company shall, in the receipt of rents and in the overseeing and management of trusts and other property, keep distinct records and accounts of all operations connected therewith; provided that in the management of the money and property held by the company as trustee, or in any other official capacity, under the powers conferred by this Act, the company may, unless the authority making the appointment otherwise directs, invest the trust money in the manner provided by section 10 of this Act in a general trust fund of the company; provided, however, that the total amount of money of any one trust invested in the said general trust fund shall not, at any time exceed three thousand dollars.

Mr. R. L. BORDEN. Is that the usual power?

Mr. FIELDING. It is in other charters. It means that only small fractions of trust moneys may be gathered together and put into one fund.

Mr. R. L. BORDEN. The only danger is that to that extent it prevents the property being ear-marked and followed in case of necessity.