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GUARANTEE BONDS AND TRUST COMPANIES.

There has been some confusion of ideas with regard to the guarantee of bonds by insurance companies who insure the faithful performance of trusts on the part of trust companies doing business in British Columbia. The question arose over the fact that a British Columbia Court refused to allow an insurance company to cease its liability by reason of the lapsing of a policy on an individual in a private trust before the obligation for the administration of an estate has ceased by the distribution of the assets and the discharge of the trust by the Court.

Trust companies under the "Trust Companies Act" may deposit with the Minister of Finance and Agriculture, moneys, certificates of deposit, securities acceptable to the Minister, or the guarantee bonds of an insurance company doing business in the Province acceptable to the Minister.

In the latter case the form of the bond must also be acceptable to the Minister. The acceptable form contains the following provision:

"Now the condition of this obligation is such that if the above bounden.....Trust Company shall faithfully execute all trusts which may during the period of one year ending with.....day of....., A. D., be acceptable by or lawfully imposed upon it within the Province of British Columbia, and shall, when called upon by the Minister of Finance and Agriculture for the time being of said Province, provide such sum of money as will enable him to pay all lawful claims of the depositors and creditors of the said.....Trust Company and all its obligations generally within the said Province, now existing or arising, contracted or entered into during the said period of one year, then this obligation shall be void, but otherwise shall be and remain in full force and virtue, and this bond or obligation and all money paid to the said the Minister of Finance and Agriculture thereunder shall be held and applied by him for the purposes and administered in the manner provided in the said 'Trust Companies Act' and the regulations made by the Lieutenant-Governor in Council thereunder."

This provision definitely fixes the liability of the guarantee company for all trusts undertaken by a trust company created during the period of the life of the bond, and also for the life of the trusts or other obligations created during that period. Liability of a guarantee company cannot be discharged so long as any trusts created during the period of its guarantee are in existence except by substitution first of money, second of securities, and third of another guarantee company registered in the Province and acceptable to the Minister, who will undertake all liabilities assumed by the first guarantee company during the life of its policy and all other liabilities contracted during the period of its policy in force.

Under these restrictions it would appear that guarantee companies would not be anxious to undertake obligations that are so difficult to discharge after the termination of its policy.

The disastrous case of the Dominion Trust Company has made guarantee bonds on trust companies, if not unpopular, at least the subject of the closest scrutiny.

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