

The Chief Justice stated, as clear, the rule that a trustee, or person in the position of a trustee, was entitled by way of compensation in the position of a trustee, was entitled by way of remuneration for his services to a commission upon the corpus of the estate coming into his hands and finally distributed by him, but payable only when distribution actually takes place, from time to time, and he may be entitled, in addition, to a reasonable annual allowance for care and management of the estate, or, instead, he may be allowed a lump sum, to include and cover both commission and annual allowance, or either of them; also that the usual rate of commission, when allowed, is 5 per cent.

Re Toronto General Trusts & Cent. Ont. Ry. Co. (1905), 6 O.W.R. 350. The trustees having resigned, an order was made releasing them, dispensing with passing their accounts and referring it to Mr. Cartwright, official referee to determine "what compensation, if any, (they) are entitled to for their care and pains, trouble and time expended in and about the execution of the said trusts." Except as repository of a mortgage and trust title, the trustees had not been in possession of the trust estate, had not collected or disposed of any money, had not been required to assume any supervision or control of the trust property and had not taken any steps to protect or preserve the trust property, save in prosecuting two actions and defending another brought against themselves, which litigation had been in charge of their own solicitors whose costs the railway company had paid or provided for. Mr. Cartwright allowed them as compensation the sum of \$14,000. On appeal to Mr. Justice Teetzel, he reduced the amount to \$1,500, and, in the course of his judgment, enunciated these as the circumstances which, in his opinion, ought to be taken into consideration in all cases in fixing the amount of compensation:—

(1) The magnitude of the trust; (2) the care and responsibility springing therefrom; (3) the time occupied in performing its duties; (4) the skill and ability displayed; and (5) the success which has attended its administration.

Re Prittie Trusts (1908), 12 O.W.R. 264. In this case, Mr. Justice Britton adopted and approved of, as the rules which