



The Public Trustee of Manitoba

By Douglas A.S. Paterson, Q.C.

The Public Trustee is an official of the province and appointed by Cabinet. The Public Trustee must be a member of the Manitoba Bar of at least 5 years standing. The Public Trustee is an office and a person too.

The Public Trustee has several statute-mandated jobs, namely the official guardian, litigation guardian of infants, summary administrator of small estates (less than \$10,000.00), a committee (pronounced 'Komm Mitt Tea') under the Mental Health Act, a substitute decision-maker under the Vulnerable Persons Living With a Disability Act, an Executor (if a Will) or Administrator (if no Will), and an administrator of a public or charitable trust.

The official guardian is needed when the Province for whatever reason requires some property or asset to be preserved and cared for temporarily. Litigation Guardian of children means the Public Trustee sues or is sued in place of a child litigant. Small estates administrator means the Public Trustee acts as a personal representative of an estate with less than \$10,000.00 when no

one else will wind it up. A committee or substitute decision maker is needed when a person is unable to handle her/his own legal or business affairs because of some mental or physical disability. An Executor or Administrator is a personal representative when a person dies leaving an estate of over \$10,000.00, but for whatever reason, no family member or friend is available to wind up a deceased's affairs.

So the Public Trustee is very useful and versatile in serving the citizens of Manitoba. The Court of Queen's Bench is very jealous and protective of children's rights for example. It is therefore built into the Court rules and processes that any infant settlement must have the knowledge and approval of the Public Trustee before the court will consider any settlement involving children. Judges want to make sure the Public Trustee's office has reviewed any settlement and has no concerns with it.

For doing the above-named jobs, the Public Trustee is usually allowed to charge fees and disbursements out-of-pocket so

as to reduce the cost to the public treasury.

The Auditor General must audit the Public Trustee's books annually. As well, the Public Trustee must file an annual report with the Legislature of Manitoba and also file the Auditor General's report with the Legislature.

If a person is a ward (or controlled by) of the Public Trustee, the Public Trustee may consent to any required medical treatment of the ward.

The Public Trustee's website says it manages and protects the affairs of those unable to do so themselves and have no one else to do so.

Really, one has to ask, where would we be without the Public Trustee fulfilling these often difficult tasks? They fill a pressing need for vulnerable people in our society.

Some very useful publications can be found on the Public Trustee website at www.gov.mb.ca/publictrustee/pubs/index.html.