

INTESTATE ESTATES.

61. During the year 604 intestate estates, of a value of £482,239, were reported to the Public Trustee for administration, and on the 31st March last there were 2,223 such estates, of a value of £1,541,841, under the control of the Office. As compared with the preceding year the number of estates of this class reported is slightly less, though the number and volume of new estates of all classes reported during the year showed a marked increase. This is in keeping with the experience in previous years, the number of intestate estates showing a tendency to decrease as persons become more educated in the matter of will-making and take steps by testamentary dispositions to ensure that their estates shall be administered in the manner they desire.

The establishing of proofs of kin is a most important phase of the administration of intestate estates. Often the details of family history are of the most meagre character, and then the search for next-of-kin may involve a large amount of correspondence and advertising. Advertisements for next-of-kin, especially of the more common names, invariably produce sheaves of inquiries necessitating close scrutiny and a heavy volume of correspondence. In prosecuting these inquiries facts of illegitimacy and other matters on which a reticence is naturally maintained are at times revealed. In these instances the correspondence and interviews are conducted with as much delicacy and consideration as possible, and every effort made to prevent offence or annoyance being given to the persons closely concerned.

Nothing of special interest in reference to the administration of intestate estates has arisen during the past year.

MENTAL PATIENT ESTATES.

62. During the year 423 estates of mental patients, with assets of a total value of £360,552, were reported to the Public Trustee for administration, and on the 31st March last there were 1,456 of these estates, with assets valued at £1,552,981, under the control of the Office.

The administration of the estate of a mental patient is governed by principles very different from those applying in the administration of estates of deceased persons. In the administration of a deceased person's estate the lawful debts must be provided for before the beneficiaries can receive any benefit. In the administration of the estate of a mental patient the leading principle and paramount consideration is the interest of the patient himself. The following passage from the judgment of Skerrett, C.J., in the case of *In re Smith* (1927 G.L.R. 274), enunciates this principle:—

It is, of course, clear that the management of the patient's affairs and the administration of his property is undertaken by the Public Trustee in the interests of the patient, and not for the benefit of his creditors, his presumptive next-of-kin, or his heirs. The primary consideration must always be that he will be provided in his helpless condition with sufficient maintenance. That discretion appears to be conferred upon the Public Trustee by subsection (r) of section 100 of the Mental Defectives Act, 1911. The Public Trustee has a discretion to pay the patient's debts, but his first duty is to reserve an adequate and sufficient maintenance for the patient. The Public Trustee may elect to pay the debts or certain of the debts owing by the patient, but the election must be made for the benefit of the patient. The debts so to be paid may be liquidated in such order or in such manner as he shall determine. In cases where the interests of the patient are not affected unsecured creditors would probably be dealt with by the Public Trustee on an equal basis.

The policy followed—at least, so long as the patient has any prospect of recovery—is to keep the estate, as far as is justifiable, intact and unchanged. Maintenance due to the Mental Hospitals Department is a Crown debt, and takes priority over ordinary debts. The maintenance is paid, if possible; but it does not follow from this that in necessitous cases the assets are realized and proceeds paid to the Mental Hospitals Department by way of maintenance—in fact, the Mental Hospitals Department would not desire this to be done. Any portion of the estate may be applied for the benefit of the patient, should such a course become necessary, without regard being had either to ordinary debts or to the liability to the Mental Hospitals Department for maintenance, this being in accord with the principle that the administration of the estate of a patient is for the benefit of the patient himself, and the assets are conserved as far as possible in order that the patient when discharged will not find himself destitute.