

whose actions are subject to investigation and criticism. Moreover, a further safeguard is afforded to a beneficiary. If he feels aggrieved by any act, omission, or decision of the Public Trustee he may apply in a summary way to a Judge of the Supreme Court and such Judge may make such order as he thinks fit.

#### INTESTATE ESTATES.

59. In recent years it has been noticeable that the number of intestate estates reported for administration has shown a tendency to decrease, although all other estates reported have shown a marked increase in number and value. During the year 592 intestate estates, valued at £460,521, were placed in the Office for administration, and on the 31st March last 2,289 such estates, of a total value of £1,595,275, were under the control of the Public Trustee. The new business for this class of estate showed a decrease, which is in keeping with the experience of previous years.

To be subject to the rules regulating intestate distribution, property must be such that the deceased owner, if of testamentary capacity, could have disposed of it by will. If in such a case the owner makes no effective disposition of the property, he dies intestate in regard thereto. Partial intestacy occurs where a man makes a testamentary disposition of part only of the property of which he is competent to dispose by will. There can be no doubt but that the diminution in the number of intestate estates reported is due to the fact that nowadays increasing numbers of persons are taking steps, by means of testamentary directions, to ensure that their estates shall be administered and disposed of in accordance with their wishes and the proper claims on their bounty. The stereotyped statutes of distribution, which operate in the absence of testamentary dispositions, were framed, of course, to distribute as fairly as might be the estate of a deceased intestate amongst his next-of-kin. Distribution under intestacy, however, is necessarily rigid, and cases often occur where, by reason of there being no will, dependants and others with strong moral claims on a deceased person are left destitute, whilst the administrator has to search for the next-of-kin, who very often are abroad and who have been completely out of touch with the deceased but who, when found, take the whole estate.

At best, there can be but a small minority of cases where the distribution of an estate under the laws governing intestacy conforms to the manner in which the deceased person would have wished to see his estate distributed.

60. Whilst on the subject of intestate distribution, I deem it advisable to point out that experience over a large number of cases leads me to the conclusion that a number of statutory provisions affecting the administration of estates and the distribution of intestacies is to some extent out of harmony with modern ideas, and, as I have said, often excludes those who have strong claims on moral grounds to participate. I agree with those who claim that the recent Trustee Acts and Settled Lands Acts in England and similar legislation in some of the Australian States might advantageously be copied here, and some of our statutes with justification brought into line with that advanced legislation. An important part of the Administration Act, 1908, deals with the distribution of estates of intestates. When this Act was first framed it was rightly regarded as an advanced piece of legislation, but something should be done to lessen the rigidity of the provisions—for example, in regard to the mother of an intestate where the father is unworthy. In the case of wills, the Family Protection Act has in recent years afforded relief to a widow and children who have not been provided for by a testator, but nothing has been done to give greater elasticity in intestate distribution.

Numbers of intestate estates are small in value and their administration often not lucrative. At the same time, it is recognized that the work must be done, and that the Office is a public institution created to render a public service. Accordingly, no estate is refused, however small, unless it presents complications and liabilities which would not admit of its being efficiently or safely administered by the Public Trustee or any other administrator. As has been pointed out,—

Intestate estates are very troublesome to handle, for frequently they are represented by a suburban section with a cheap house and a heavy mortgage. Such properties are difficult to dispose of so as to satisfy the expectations of beneficiaries, and especially so when suburban properties of that kind come to be a glut in the market.