

The Public Trustee was directed to keep a separate account, called the "Public Trust Office Expenses Account," which was to be charged with all salaries and other expenses incurred in the general management of the Office, and to be credited with the sums payable out of the several trust properties for the cost of managing the same, and with all fees or other moneys paid into the Public Trustee's Account but not belonging to or forming part of the trust property. If at any time the balance in this account should be insufficient to meet the charges thereon, power was given to the Colonial Treasurer to furnish from time to time such sums out of the Consolidated Fund as might be necessary to meet such charges, but the total amount so advanced in any one financial year was not to exceed the amount appropriated by Parliament for such purpose, and all such sums were to be repaid as soon as the balance in the Public Trust Office Expenses Account admitted of the repayment; while if the balance in the Public Trust Office Expenses Account was more than sufficient to meet the charges, the excess was to be paid into the Consolidated Fund as directed by the Colonial Treasurer. The Act provided that the Public Trustee was to be appointed by the Governor, acting in the name and on behalf of the Sovereign, to hold office during good behaviour, and to be removable from office only on an address from both Houses of Parliament.

Provision was also made for the appointment of a Deputy Public Trustee to act in the case of the illness, suspension, or absence from duty of the Public Trustee.

DEVELOPMENT OF POWERS OF PUBLIC TRUSTEE.

In 1873 the scope of the Public Trustee's functions was considerably extended. The original Act provided for the appointment of the Public Trustee as trustee under a will, but gave him no authority to deal with the estate of persons who died intestate. Under the then existing law, if a man died without a will his next-of-kin, or in default of next-of-kin some creditor, was entitled to administer the estate. It frequently happened that men died without leaving any person in a position to assume the administration of their estates, in which case it was necessary that some official person should step in and administer. The old law had been that the respective Registrars of the Supreme Court were entitled to take out administration, but it was found that these officers were not always the most suitable persons to carry out the duties of administrators, foreign as these duties were to their ordinary work. Accordingly an Intestate Estates Act was passed in 1865, providing for the appointment of a Curator of Intestate Estates for each province, to whom might be granted administration of the estates of persons who died intestate. This system was found to be so loose and unsatisfactory that an improvement was highly desirable. The Curators, within the limits of their respective provinces, were independent of any common authority. The only control and supervision over their administration was a provision that their accounts were to be submitted to a Judge of the Supreme Court for a declaration that they were correct. After this had been signed by the Judge the accounts were practically passed and no further inquiry could be instituted.

The Public Trust Office Act Amendment Act, 1873, was therefore passed, repealing the Acts dealing with Curators of Intestate Estates, and providing for the taking-over by the Public Trustee of all estates under administration by them. In cases where no grant of probate or letters of administration had been made relating to the estate within New Zealand of a deceased person, and where no person entitled and within New Zealand was ready to take such a grant, and the estate or some part thereof was exposed or liable to loss, waste, or injury, the Public Trustee was directed to apply to the Court for an order to administer. If no administration of the estate had been granted to any person within three months after the death of the intestate the order might be granted to the Public Trustee without proof that there was no person entitled and within New Zealand ready to take a grant, and without proof that the estate or any part of it was exposed and liable to loss, waste, or injury.

The Act provided that it should not be necessary for the Public Trustee to apply for administration where the value of the assets of the estate did not exceed £50. If, however, it was subsequently found that they exceeded this amount the Public Trustee was required to file in the Supreme Court a memorandum stating the fact, and to apply for an order to administer in the ordinary way.

The Act also conferred on the Public Trustee the power to take possession of perishable property pending a grant of administration, and to take possession of, manage, and receive all real estate, and all rents, income, and proceeds arising therefrom, accruing to any heir at law or devisee absent from New Zealand at the time of the death of the person from whom such real estate was immediately derivable, and to administer the same for the benefit of the devisee or heir at law.

Although the original Act authorized the Supreme Court to appoint the Public Trustee committee of the estate of a lunatic, he had no authority to deal with estates of which no committee had been appointed. The administration of these estates had been entrusted to the Registrars of the Supreme Court, but it was now transferred to the Public Trustee, the new Act providing that he should thereafter take possession and care of, receive, collect, preserve, and administer the property and estate of every lunatic patient of whose estate no committee had been appointed, and all such property and estates were hereafter to be deemed to have been placed in the Public Trust Office. This provision now appears in the Mental Defectives Act, 1911.

Authority was also given to the Public Trustee to apply for an order to administer with will annexed in cases where the person entitled to such administration was absent from New Zealand, a minor, or under some other disability.

From 1873 onwards the administration of the Act was very successful, and the extent of the operations of the Public Trustee gradually increased (the total in 1875 amounted to £66,000).

In 1876 a fresh measure was introduced designed to increase the usefulness of the Office by conferring on the Public Trustee powers which he did not possess under the former Acts and which his experience had shown to be desirable. The most important of these was the authority given to