This Act was amended by the Intestates Estates Act Amendment Act, 1866, by which power was given to divide the colony into a greater number of districts and appoint additional Curators. By section 6 it was provided that if no administration of the estate of any deceased person was granted to any person within three months of the death, the Curator was entitled to administration on proof of death and intestacy only.

In 1872 the Public Trust Office Act, 1872, established the Public Trust Office. The Curator's right to administer intestate estates was left untouched, and the functions of the Office were confined to trust estates and lunacy estates, there being no provision regarding or authorizing the grant of administration to the Public Trustee in the case of intestate estates.

In 1873 the Public Trust Office Act Amendment Act, 1873, repealed the Intestate Estates Act, 1865, and the Intestate Estate Act Amendment Act, 1866. By section 3, the Public Trustee was created *ex officio* Curator of Estates of Deceased Persons; the Curators ceased to hold office, and all estates vested in them became vested in the Public Trustee.

By section 4 the Public Trustee was directed, upon receiving information of the death of any person, to apply to the Supreme Court for an order to administer the estate. The order could not be granted unless the Judge was satisfied that no grant of probate of the will or letters of administration had already been granted, that no person entitled and within New Zealand was ready to take such grant, and that the estate, or some part thereof, was exposed and liable to waste or injury; but if no administration had been granted within three months of the death, the Public Trustee was entitled to administration on proof of death and intestacy only.

The difficulties of proof under this section were so great, and the three months' delay so inconvenient, that few administrations were applied for. Consequently the law was amended by section 5 of the Public Trust Office Act, 1876, which empowered the Court to grant administration to the Public Trustee without any other proof than that of death and intestacy. The section went on to provide that if any person entitled applied for administration within six months after the death, or three months after the grant to the Public Trustee, the Court might transfer the administration to the applicant. This also was found so cumbrous and inconvenient that little or no administration-work was undertaken by the Office.

In 1893 the Public Trust Office Act Amendment Act, 1893, was passed. Section 10 provided that, pending the grant of probate or letters of administration to any person entitled thereto, the Public Trustee might, for the protection of the estate, exercise certain of the powers of executors and administrators. Before doing so, however, notice of his intention to exercise such powers was required to be given by him to any person entitled to the grant. This section was practically a dead-letter, owing to the difficulties as to notice. It was acted upon only where the Public Trustee was applying for administration, but urgent steps to protect the property were necessary whilst the application was pending.

This state of things continued until the passing of section 14 of the Public Trust Office Consolidation Act, 1894, which provided that the Public Trustee, if he thought fit to apply, was entitled to administer the estate of any intestate person, and was entitled as of right, provided that the Court might appoint any other person who applied, and who, but for the section, would be entitled to administration. The section, moreover, relieved the Public Trustee from the necessity of giving to any person notice of his application.

This section, which is re-enacted as section 14 of the Public Trust Office Act, 1908, has always been construed by the Office as giving to the Public Trustee an absolute right to administer, unless the Court thought fit to grant it to some other person who would otherwise be entitled. Moreover, the Office has always considered that in conferring this right the Legislature imposed on the Public Trustee a duty to claim administration in all proper cases—*e.g.*, where the next-of-kin were in conflict with one another, or where, by reason of absence, infancy, mental incapacity, or other disability, any of them was not in a position to protect his own interests. The Office has consistently acted on this view of the law, and in doing so has been supported by two Supreme Court decisions—*In re* Ross (13 N.Z. L.R. 211) and *In re* Wallace (10 G.L.R. 331). The Office has never claimed administration against next-of-kin where they were all agreed and in a position to protect themselves.

Section 10 of the 1893 Act was repeated in section 16 of the 1894 Act, and again in section 16 of the 1908 Act.

Recently the position was considered by the Supreme Court in the case of *In re* Craig (14 G.L.R. 139), where it was held that in sections 16 and 17 of the Public Trust Office Act, 1908 (corresponding to section 10 of the Act of 1893), there was a clear recognition of the rights of the next-of-kin to administration in priority to the Public Trustee; consequently that section 14 of the 1908 Act must be read with those sections, and, so read, must be construed as not taking away the right of the next-of-kin, but simply as giving a right to the Public Trustee in cases in which no application is made by the next-of-kin, or the Court refuses to make an order on such application; further, that the Public Trustee, when applying, should inform the Court as to his knowledge of the persons entitled to administration, so that the Court might direct its officers to notify them, and adjourn the Public Trustee's application until they could be heard.

If this is a correct statement of the law, practically the whole of the intestate administration of the Office must go by the board, for all the difficulties which section 14 of the Act of 1894 (now section 14 of the Act of 1908) was expressly designed to remove will revive in full force. Apart from all other considerations, it is obvious that the Office would never be justified in incurring the trouble and expense of making applications that could not be granted if any of the next-of-kin thought fit to apply. Some conception of what this means may be gathered from the fact that at present over seventeen hundred intestate estates are in course of administration. Many of them are small and unremunerative. Indeed, taken as a whole, the intestate