ADMINISTRATION OF ESTATES

C. B. CLARK, B.A. (Sask.), B.C.L. (Oxon.)*

The object of this article is to deal in a very general way with some aspects of the law and practice relating to wills and the administration of estates which are often not included in the law school curriculum.

It must be recognized that this branch of our jurisprudence is one of the most prolific in new and complex situations, and in the resulting applications to our courts to have the problems unravelled. Therefore, it would be impossible to deal fully, or even adequately, with such a subject in an article which must of necessity be brief. However, there are some points which all practicing solicitors are bound to encounter, and these can be dealt with simply enough to repay this effort to explain them.

There are two fundamentally divided fields in the study of the impact of death upon the ownership of property by individuals. The first concerns the application of the mind of a man who is still alive to the details of the disposition of his property after his death. The second is the body of law which comes into effect and begins to operate after his passing. It is not long before the young solicitor discovers the wide gulf which exists between the two sets of circumstances.

Let us consider the first question. After clients have died, solicitors will over and over again find themselves wishing that they could go back and have half an hour of their clients' time while they were still alive. As there is yet no known way of arranging this, the solicitor should do his best to see that a client has as far as is possible protected his estate, his dependents and his beneficiaries by executing an intelligently conceived will. It is unnecessary in this article to deal exhaustively with the reasons why a will is almost certain to be better than an intestacy. The latter leads to inconvenience and expense, and often the laws of succession provided by the provincial Legislature are inadequate or even unjust. For instance, a man may have a widow and seven children over the age of twenty-one. He may leave a net estate of $42,000.00. If he dies intestate his widow will receive $14,000.00 while each of the seven children will receive $4,000.00. The widow may, and often does, live for many years after her husband's decease. If she does, $14,000.00 is simply not enough to see her through, whereas $42,000.00 might well have done so. The $4,000.00 to each child, while no doubt welcome, is not sufficient to mean much to them in a permanent way. It would obviously have been far better for the man to have made a will leaving everything to his wife. She would by her own will pass on to the children whatever might remain when her time would come. An illustration such as this is sufficient to show that the "gulf" referred to previously is not an imaginary danger, but is one of which solicitors should constantly be aware.

Other difficulties are the necessity of obtaining an expensive bond for the person who is to become administrator, the necessity of obtaining renunciations

*Member of the Alberta and Ontario Bars. Of the firm of Becker, Weeks, Matheson, Peterson, Clark and McLellan, Edmonton, Alberta.

from the other next-of-kin who may be living far away or may be lukewarm about releasing their rights, the clearing of the position of infants with the Public Trustee, and so on. All of these are eliminated if there is a properly drawn will.

Often the solicitor feels that he is in a difficult position with respect to a client, because he is not allowed to canvass for business. It might seem that in asking a client to have a will drawn he is soliciting business for which he will charge a fee. It is suggested that this feeling should not be an obstacle in the case of wills. If in the course of discussing other business with a client, there is not an opportunity to point out the desirability of having a will, the solicitor should if necessary put the matter directly to the client and advise him to attend to it immediately.

It will be noticed that the phrase "a well-drawn will" has occurred frequently in what has been said. Most readers of this article will be familiar with the poetic toast which is, in fiction if not in fact, drunk at the dinners of the members of the Inns of Court in England. It is to "the jolly testator who drawns his own will". It points up the fact which the practitioner is almost sure to encounter for himself—that a will which is not well drawn can cause more trouble and expense than an intestacy ever could. It is a standing reminder to solicitors that when they have a client willing to make a will, it is necessary to elicit from him, patiently and carefully, the facts which must be known if the will is to be well drawn. Charles Dickens' "Bleak House", with its famous case of *Jarndyce v. Jarndyce,* is another object lesson of the pitfalls which await the unwary draftsman.

Perhaps an example will serve best to illustrate what can happen and what should not happen. It is an actual case, although the marks of identification have been changed. The testator in question wished to make sure that his wife's relatives would not receive any part of his estate. He therefore listed his property in a memorandum to his solicitor, showing that the income from it was about $300.00 per month. He directed the solicitor to prepare a will, instructing his executor to pay $300.00 per month to his widow during her lifetime, and upon her death to divide the remaining capital equally between two well known charitable organizations. He expected, of course, that the revenue would be sufficient for the payments, and that the capital would be virtually intact upon his wife's death. Shortly after making the will he died, and it was discovered that half of the property which he had listed was in his wife's name. The wife insisted on being paid the full $300.00 per month, although it was obvious that there had been a misunderstanding, and although the total of the $300.00 and the $150.00 from her own half of the property was more than she required for her support in comfort. The result was that she lived long enough to deplete all of her husband's estate, that the charities received nothing, and that the wife was able in her own will to leave the capital to her relatives. Thus a "well-conceived" plan of disposition had been defeated by a will which was not well drawn.

The moral of this story is that the solicitor should be careful to ascertain the actual facts of the client's estate before drawing his will. It is no doubt true that in many cases it will be evident that the proper advice to the client will be that he execute a will leaving everything to his wife and appointing

her his executrix. But it does not follow that the circumstances should not be most meticulously scrutinized before it is decided that a more extensive disposition is not advisable.

The solicitor must remind himself that nowdays there are nearly as many ways of registering and transmitting property as there are kinds of property. Real estate is controlled by the Land Titles Act, bank accounts by the Bank Act, motor cars by the Vehicles and Highway Traffic Act, stock certificates by the various Companies Acts and Estate Tax Acts, and so on. The solicitor should familiarize himself with the requirements in each case, because he can often save much trouble and expense by having the documentation or conveyancing done before death. Indeed, with clients whose ownership of property is not extensive, it is often easy to arrange matters so that a grant of probate or administration is not necessary. Real estate, for example, can be held jointly, so that all that is required is a filing of a declaration and a death notice in the Land Titles Office. Bank accounts may be joint, and although this does not necessarily determine the ownership of the money, it does mean that the court grant is not required to have the money released. (The bank may, of course, be entitled to demand an estate tax release, but this is readily obtainable).

So, in many instances the solicitor may be able to avoid complications in the administration of estates, either by eliminating its necessity altogether, or by ensuring hat the terms of the will are adjusted precisely to the holdings and circumstances of the testator.

This is not the place for a lengthy discussion as to the advisability of husband and wife owning homesteads or bank accounts in joint tenancy. But as a solicitor is often asked for his opinion, one may make the gratuitous suggestion that the marriage contract is like other contracts in one respect. It is entered into in the expectation that it will be carried out, and the odds that it will are still heavy. Consequently, the odds are also in favor of the taking advantage by any individual client of the opportunities offered by joint tenancy; the chances are not great that he will regret having done so.

Perhaps we should at this point remind ourselves that everything which clients wish to have in their wills may not be permitted by law. The Family Relief Act prevents dispositions which would neglect wives or dependent children. The Dower Act answers that spouses may not alienate the homestead by will Other well-known statutes have less far-reaching provisions of a similar nature. There is one practical matter, however, which is often overlooked, and which may at any time prove to be of great importance in any given estate. This is the fact that the Public Trustee may demand the payment to him of any money which belongs to an infant, and for which a well-drawn, specific trust has not been formulated. The Public Trustee then administers the fund on behalf of the infant, paying maintenance and support if he deems it necessary, and accounting to the infant on its reaching the age of 21. Moreover, the Public Trustee can and does scrutinize each estate on behalf of infants, and may demand that some percentage of the estate be paid to him on behalf of infants if he feels that they are not adequately provided for. All solicitors should be familiar with the decisions in *In re Denton Estate* (1950) 2 W.W.R. 848, and *In re Finlan* (1951) 3 W.W.R. (N.S.) 671.

In cases in which these principles might apply, it will be the solicitor's duty to point out this fact to his client. There is no doubt in the minds of Alberta lawyers that the Public Trustee's office performs a useful function in this regard, and there can be no doubt that many infants' funds have been dissipated which would have been secure in the Public Trustee's hands. But the fact remains that many testators do not like the idea of having the handling of their money fall into the hands of "strangers"; also, many widows who thought that they would be looking after their children's funds complain bitterly when they find that they are going "to the government".

How can the intervention of the Public Trustee be avoided? Suppose a man has an estate of $80,000.00 and leaves a widow and two children under 18. He can leave to the wife absolutely $60,000.00 or perhaps $65,000.00. He can then leave to her in trust for each child $10,000.00 or $7,500.00, with power to spend the income and so much of the capital a she considers necessary for the maintenance, education and support of each child until it reaches the age of 21, and leave the balance to each child absolutely. In this case the Public Trustee will not intervene and the wife is enabled to use the funds for the children in practically the same way as she would if the whole estate had gone to her outright. The amounts to be used in each case depend upon the size of the estate, but with *In re Denton* and *In re Finlan* as guides, they should be calculable without difficulty.

We have now reached the stage of having a will which is both well conceived and well drawn. In an article such as this, we cannot hope to deal with the problems which present themselves in the case of wealthy clients. This is a subject for separate discussion. However, a word might be said about the appointment of an executor. This is a touchy subject, among solicitors themselves as well as among clients. But what is a young solicitor to say if a client asks for his advice, or even his opinion? Shall he point out that if a widow has a level head or some business experience there is no reason to expect that she will not look after the ordinary run-of-the-mine estate satisfactorily? Should he say that many men appoint their solicitors or chartered accountants who as experienced men should know best how to handle the task? Should he recommended a trust company, which is a professional administrator, and which does not run the risk of dying, either before the testator's death or in the middle of the administration with the job half done? Will he leave it to a relative or a friend who has his own affairs to look after? These as a rule are the alternatives. In many cases, the mere asking of the question will point to the answer. In others, each solicitor must make his own choice, and until he forms his own predilections and gains his own experience, he must rely on his common sense to make a wise decision in each individual case.

One practical detail should be noted. Many people suggest as their executors sons or other relatives who do not live in Alberta. In our courts such persons will be looked upon as "foreigners". They will have to file a bond and they will be subject to other difficulties which should lead a solicitor to discourage the idea. Moreover, the possibility of the executor moving to another jurisdiction should be considered at the time of the appointment. If the chances of his moving are strong, it is probably better that he be passed over.

Trust companies, of course, are always available. Under Section 69 of the Trust Companies Act, the court has wide power to appoint a trust company if there is an intestacy or if a named executor cannot or will not act. This will eliminate the necessity of obtaining a bond, and it may be economical in other minor details. There is the matter of the trust company's charges, and as there is no way except experience for a young solicitor to find out what these are, a word or two about them may not be amiss in this article.

The trust company derives its statutory right to receive a fee from Sections 51 and 52 of the Trustee Act, which do not set any figures. This applies to all personal representatives, but the trust company is remunerated in exactly the same way as an individual would be in the same circumstances. The courts have developed an unwritten rule or practice that when the estate is not a continuing one, there should be a fee for getting the assets in, of from 1% to 2½% and of 2% or 2½% for making disbursements. 1% is considered sufficient for realizing substantial sums in bank accounts or in Canadian life insurance policies; 2½% is allowed when assets such as real estate or businesses have been sold or disposed of; other fees fall in between, depending upon the degree of difficulty involved. For disbursing, the 2½% applies when the work done has been difficult or involved, with the 2% being considered sufficient if the task has been comparatively simple.

Lately ,with the advent of the high cost of living and of doing business, there has been a tendency on the part of the courts to fix the total at the full 5% except in the most simple cases, so that your client can expect the trust company's fee to reach or to approximate 5% of the cash amount realized, or of the fair market value of any assets which are transferred to the beneficiaries in specie. Again, it should be repeated that these fees apply in all cases. Often, when relatives are appointed who are expected to do the work for nothing, they find that there has been so much to do that they feel entitled to take whatever fee the court decides to award them. The recent case of *Re Lasby Estate,* (1960) 33 W.W.R. 269, is useful as a guide to this complicated subject.

One of the anomalies in estate work is the fact that in many cases where the executor is a mere supernumerary, the solicitor does all of the work, but in the end finds himself only entitled to the solicitor's taxable costs. When it is remembered that the approximate legal fee is 2% while the executor's is 5%, it will be readily seen that the solicitor's remuneration is not sufficient. It is suggested that when such a case come to hand, the solicitor should at the outset arrange with the executor to handle the latter's share of the work, or most of it, for a fee for, for example, 2% in addition to his proper charges for acting as solicitor alone. In this way, he will be adequately paid, while the estate receives all of the benefits accruing from his professional knowledge and experience.

An alternative method of procedure available when foreign executors are named in the will, is to have a trust company appointed administrator with the will annexed under power of attorney from the executors. This is done when the executors wish to keep some measure of control over the estate, and do not wish to surrender their functions completely to the trust company. As this process has in the opinion of the writer no practical advantages, it is only mentioned here in passing.

Should the next-of-kin decide that they do not desire a professional representative, but that they wish one or more of themselves to act, it will be necessary to choose which of them it will be. This will seldom produce any difficulty, but for expedience it is preferable that not more than two should receive the actual appointment. Renunciations in the form provided in the Rules of Court are obtained from the others, and filed with the grant. At the same time, in cases such as the one quoted earlier in which the widow's third was inadequate, it may be possible to persuade the adult children to forego their intestate shares in favour of their mother. If they are willing to do so, their waivers should be included in the renunciation, and filed with the application for the grant. This is done not only to save duplication of argument and of work. If the matter is left until afterwards, the estate tax officers are apt to contend that the property had already passed to the next-of-kin and that their passing it on to their mother constitutes taxable gifts. It is needless to add that in many cases such an arrangement is a most welcome and equitable way of remedying the negligence of the deceased in not having made a will.

There are some other *ad hoc* appointments which may be made, but they are so unusual and so subtle that reference should be made to the textbooks if and when they arise. Many solicitors will never encounter them at all, but they will be readily recognizable when they do appear.

Now that the executor has been appointed, the Will may be executed. What should be done with it? The usual practice, which has been found most satisfactory from experience, is to sign one copy and to leave it in the solicitor's vault until it is required. This avoids the trouble of gaining access to safetly deposit boxes, and makes the will available to the executor with the least possible delay. An unsigned carbon copy is usually given to the testator for reference purposes. It must be pointed out that the original signed will is one of the most important documents in all of a solicitor's business; it is only in the most unusual circumstances that an intestacy can be avoided without its production. No pains should be spared by solicitors to see that its existence is properly recorded and adequately protected.

We have been referring to applications for probate. British Law has always been most partial to the individuals selected by the testator himself as his executors, so much so that it holds that the executor takes his position from the appointment in the will and not from the grant issued by the court. In cases of intestacy and appointments for letters of administration, this rule does not apply and the proposed administrator can never be certain that he will actually be administering the estate until the letters are issued by the court. From this reasoning follows the necessity of an administrator filing a bond. Sometimes in cases in which all of the next-of-kin are *sui juris* and creditors aside from funeral expenses are negligible, the court will, if consents are obtained from all, issue the grant without a bond. Aside from this one factor, everything which has been said about applications for probate applies equally to applications for letters of administration. The differences between the two functions will become evident during the administration itself when the personal representative may wish to deal with one or more of the assets in certain ways. If he is an executor, he may have been given very wide powers in the testator's will. If he is only an administrator, his authority will be found in the provincial statutes and it will always be limited as compared with

the wider discretion which wills can confer upon an executor. For example, although an administrator has power to sell real estate if the purpose of the sale is to obtain funds with which to pay debts, he must obtain the consent of the beneficiaries if the proceeds are for distribution only. An executor, if given the relevant powers in the will, can sell at his own discretion without consulting the beneficiaries. This can be remembered as a footnote to what was said above about the advantages of having a well-drawn will.

The reader of this article may be reminded of "The Life of Tristram Shandy", in which poor Tristram only manages to be born on page 240 of the narrative. We have just reached the point at which the will has been executed and filed away. We make no apology for this, because if we have not made the point that the most important part ofthe work is done before death, we have not succeeded in the purposes of this article. Let us now go forward to the time when the client has died and it becomes necessary to put into operation the administration itself.

It will often happen that the solicitor is presented with a *fait accompli,* perhaps in this context more appropriately described as a "*fait pas accompli*". A client may have died without a will or he may have appointed one or more "foreign" executors, or even no executor at all. Perhaps the executor named is not willing to act, but wishes to rennounce, as he is entitled to do if he has not intermeddled. It is important to choose the most convenient and economical method of proceeding. It is not always easy to make the choice, as has already been pointed out.

The solicitor must first satisfy himself as to whether it is necessary to apply to the court for a grant at all. If there is life insurance payable to preferred beneficiaries, he will probably find upon writing to the offices of the companies that they do not require probate or administration. They will need a copy of the will to satisfy themselves that it has not changed the beneficiaries named in the policies, and if the policies are large, they will require estate tax releases, but this is all.

Secondly, if the bank account are in joint names, the old account can be closed and a new one opened without probate. Even if the account is not joint, if its size is moderate and if the bank can be assured that there are no debts and that the estate is too small to be taxable under the Estate Tax Act, the manager will probably allow the beneficiary named in the will to take the money without further formality. If the home or other real estate is held in joint tenancy, transmission can be effected by filing in the Land Titles Office a statutory declaration with a Death Certificate as an exhibit. Automobiles can be transmitted at the Highways Department without probate, if probate is not required for other purposes.

When it is found that other minor assets may be transmitted in similar ways, it is clear that the solicitor must examine all of the assets thoroughly before he decides that a court application cannot be avoided, but must be made. The most usual assets which require a grant are real estate in the sole name of the deceased, bonds, government or otherwise, registered in his name, and certificates for shares in public companies. No legislation has yet been passed to simplify the transmission of property in these categories, and when the solicitor sees them he knows that the court grant will be required.

There is no great difficulty in placing a value for probate purposes on most of the assets. Bank accounts can be checked, homes have a readily ascertainable market price, and real estate can be appraised by professional or perhaps good amateur valuators. Bonds and stocks have their day by day market values, as have grains and other farm products. It is when the testator had a business, incorporated or otherwise, that difficult questions arise. His interest must be valued and the resulting figure must be included in the estate inventory filed with the application to the court for the grant. Often time will be important, and it will be necessary to make haste in obtaining the court's approval of the executor's appointment. For this reason, it is not essential that the value for the estate inventory must be worked out as exactly as it must be in the estate tax return. Often the solicitor, with the help of balance sheets and of information received from the deceased's accountant, partners or business associates, will arrive at a rough but reasonably thought out valuation which is used to get the application before the court. The judges are well aware of this and make no objection if at a later date there is some discrepancy between the inventory figure and the final value threshed out for purposes of the estate tax.

It is desirable that a fairly accurate statement of the deceased's debts be included in the application, as the court is entitled to the aware in a general way of the financial position of the estate. This again need not be absolutely accurate, but it should be as near to the facts as time and circumstances permit.

Of course, when one comes to the estate tax, experience shows that if an estate is large enough to become taxable—the great majority of present day estates are not, because of the exemptions allowed—one will fare better with the officials of the Department if in the original return filed the figures which are open to doubt or argument are carefully worked out on a basis which the solicitor would be prepared to substantiate in court, if he is called upon to do so. The Departmental officials are working every day with similar sets of figures and similar estimates of value, and they know their job. Naturally, they react best to returns which acknowledge this, and which do not by far-fetched ideas attempt to establish values far below the true ones. This does not mean to say that the officials are always right. If in a given case, a solicitor feels that a levy is wrong, and if he thinks that his reasons are sound, it is his duty to recommend an appeal to a client in the same way as in any other branch of his activities.

It will be permissible to take some space to discuss the transmission of stock certificates, of which there are more or less in the great majority of estates. If certificates are in street form, they require no treatment except to be mentioned in the inventory and in the estate tax reurn. If they are registered in the estator's name, it will be necessary to write to the trust company which acts as transfer agent, or to the head office of the company itself if there is no transfer agent, and enquire as to what documents are needed to effect transmission. If it is a western Canadian company, and if both its head office and the transfer agency are in either Manitoba, Saskatchewan or Alberta, this will include only the Dominion estate tax waiver. If the company's head office is in British Columbia, a release must be obtained from the Parliament Buildings in Victoria. If the transfer agency is in Ontario or Quebec, waivers must be obtained both from the Dominion and

from whichever of these two provinces is involved. In the Maritimes, only the Dominion release is as a rule asked for. It is still the case that a company such as Massey-Ferguson which has its head office in Toronto but operates a company transfer agency in Winnipeg requires a waiver from Ontario because the head office of the company is in that province. As the Privy Council has held in numerous cases that the authority to tax exists only in the jurisdiction in which the shares can be effectively dealt with, and as the location of the head office has nothing to do with the effective transmission of the shares in Winnipeg, it is suggested that the Winnipeg transfer agent has no legal right to demand an Ontario waiver. No doubt the point will ultimately be decided judicially.

As a corollary to the remarks made in the last paragraph, it is suggested that if a client has a portfolio of Canadian stocks, his estate will be saved much trouble and some expense if he will endorse all of his certificates in blank, date the endorsements before a witness and have his bank manager guarantee the correctness of his signature. When this is done, the assets can, it is further suggested, be effectively dealt with at a broker's office in Albtrta, and no provincial jurisdiction but Alberta has any right to tax them.

Registered bonds are dealt with in the same way as share certificates, except that a special form of power of attorney is executed instead of the blank transfer on the back of the certfiicate. Bearer bonds require no special treatment, but pass to the executor and from him to the beneficiary simply by delivery. If your clients have a safety deposit box, they should avoid registered bonds in cases where they have an option.

One of the most important practical steps to be taken is the review of the fire insurance carried on the property of the deceased, as well as other forms of policies which could reasonably be considered necessary under the particular circumstances of each case. If the property is not insured at all, or if it is not adequately covered, the executor may easily find himself held personally liable if a loss should intervene. Therefore he, or his solicitor on his behalf, should review the policies in relation to the assets. If the matter is complicated, he should consult a specialist. He should then advise the agencies of the death of the deceased, and place such additional insurance, if any, as may have been found necessary.

Although it is not possible to delve deeply into certain specific questions which in practice may arise at any time and on the shortest notice, a passing reference to them here is in order:

1. Because of the severity of estate taxes, the wording of the gift tax and the exemptions allowed should be carefully studied and remembered. For once, the statute is clear enough to speak for itself. Often, however, the alternative exemption is overlooked—namely, that the taxpayer can in a given year give away one-half of the difference betweeen his income in that year and the tax which he has paid on it. In these days of high earnings, this may be quite a considerable sum.
2. Because nowadays there are young men with valuable businesses which show promise of substantial increase in value over a period of years, the possibility of easing the estate tax burden should be studied, and the proceedure to be followed should be remembered. It consists, of

course, of forming a company with preferred and common shares, to own the equity stock of the business already incorporated, or the assets themselves if the business is only a partnership. The owner takes preferred voting stock which does not increase in worth, and the value of the property for estate tax purposes is therefore limited or "frozen". In an address given to the Law Society of Alberta in Calgary in January, 1957, Mr. H. H. Stikeman outlined the process in sufficient detail for his remarks to serve as a precedent. No doubt the article is still obtainable in mimeographed form, and would be useful for reference.

3. A solicitor may find himself involved in discussions concerning the relationship between wills in which a widow is left a life estate and the resulting saving on death duties. This is a matter which was important under the old Dominion Sucession Duty Act, in which the rate of taxes was dependent upon the size of the legacies left to individuals. By having the whole of the estate left to the widow in trust instead of to her outright, the value of her interest was substantially diminished and the total taxes thereby appreciably reduced. This is no longer the case since the Succession Duty Act was repealed and the Estate Tax Act came into force in 1958. Since then, the Dominion estate tax is based only on the amount of the estate and the value of the interest left to the widow is not relevant. It is still important, however, that the solicitor should have accurate knowledge of the question, as he will undobutedly have clients who will have heard about it, and will be asking about it.
4. Familiarity with the provisions of the Insurance Act dealing with life insurance should be acquired. The position of preferred beneficiaries, the right to change endorsements by will, and similar matters are often very important. Sometimes they can be used to great advantage, and, on the other hand, neglect to use them at the right time can frequently cause trouble or hardship. As they are found in the Act itself, they are always available.

Let us add a word about advertising for creditors. The requirements are, of course, set out in Rule 1012 of the Rules of Court. The amendment of February 25, 1958, shortening the notice required, should be noted. If the proper notice is inserted, the personal representative is protected by claims against the estate of which has has not been notified. However, the question remains as to when the publication of a notice may be dispensed with, and when it is necessary to have the insert made. A good working rule is that if the representative and the beneficiary are not the same person, it is not advisable to omit publication. On the other hand, if they are, the claim continues to be valid until the expiration of the period provided for in the Statute of Limitations, and the advertisement is an expense which serves no particular purpose. Sometimes a representative will decide that he is quite certain that the deceased left no indebtedness, and that he will forego the cost, even if he is not the beneficiary. Sometimes a widow who is also the executrix would like to know whether there are in fact any claims which might be attracted by a notice and will wish to have the advertisement made. Each case is to be decided on its own facts, but the working rule set out above will prove in most instances to be the proper one.

Let us conclude with a word of warning. Statutes, regulations, rules written or unwritten, and judge-made law are all continually changing. Moreover, many changes are not widely advertised, if they are disseminated at all. The solicitor will find it a time-saver if he adopts some system of becoming advised and making notes of changes as they come along. He will then not have to go back, perhaps for years, to check or to find what the position now is when a set of facts comes before him. The writer once heard the late Mr. Justice Lamont, of Saskatchewan and the Supreme Court of Canada, say: "The law is like the woodpile—you have to keep at it.". If there is any branch of our law to which His Lordship's remark applies, it is the administration of estates.