

# Estate Administration and Accounting (Lawyers' and Accountants' Edition) (Book Review)

Edward J. O'Toole

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ESTATE ADMINISTRATION AND ACCOUNTING. Lawyers' and Accountants' Edition. By Chester J. Dodge and John F. Sullivan. New York, N. Y.: Clark Boardman Company, Ltd., 1940, pp. 872.

In these days, the competent and expeditious administration of estates is a constant source of anxiety and perplexity to the general practitioner. In fact, there are occasions, not infrequent, when the skill and resourcefulness of the specialist in this branch of the practice are challenged by the subtle and unusual complications that develop.

To furnish all the solutions of estate administration in one volume is, admittedly, quite impossible, and no one with the long and valuable experience of the authors would attempt it. What they have done, however, is to develop a portrait of the administration of an estate from beginning to end with special emphasis on that fateful climax, the final accounting. One cannot disregard safely the final accounting until the day of reckoning arrives. Just as soon as the petition for letters of administration or for probate is filed, the attorney in charge must begin to set the financial house of the estate in order so that his final account will be a matter of mere routine and not the debacle, so characteristic of too many final accounts.

Chapters One to Four deal with those early days in the administration of the estate: Jurisdiction, Intestacy, Testacy and Testamentary Limitations. Beginning with Chapter Four, the book proceeds in an orderly and lucid way to discuss the accounting phases of estate administration. For example, there are chapters devoted to a consideration of such pertinent topics as "Sale and Investment", "Funeral Expenses", "Principal and Income", "Taxes" and "Commissions". These matters and others are treated in a practical way so as to afford to the bar a comprehensive view of the estate in motion.

This is not a book to be read in parts. For instance, if one were to examine Chapter Nine on "Trusts" and no other part of the book, it would undoubtedly be found disappointing. We must realize that the law of testamentary trusts and future interests which is also included in this chapter cannot be exhausted in its thirty-nine pages. However, in fairness to the authors it should be pointed out that their aim is not to write a book on the law of trusts, but rather to consider the administration of a testamentary trust as part of the scheme of estate administration. This, it is submitted, they have done.

There are many who would be interested in the personal reaction of such experienced authors to what might be described as "out of line decisions", or in other words decisions which do not seem to conform with our popular ideas of what the law should be. For example, when *Murray v. Brooklyn Savings Bank*,<sup>1</sup> was discussed at page 138, it would seem that an excellent opportunity was offered to present an objective attitude toward a rule which would permit the widow of a husband who died testate to elect against a Totten trust but denied her that right when he died intestate. It is believed that opinions on matters of this type more freely expressed by authors of such wide experience

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<sup>1</sup> See recent decision, *Krause v. Krause*, *supra*, p. 137.

would go far in bringing about needed statutory changes in matters where the courts determine they have no power.

The distinguished Surrogate of New York County in his foreword to this book stated among other things that the volume was "of particular importance to the members of the profession". Such a recommendation by Judge James A. Foley needs no further amplification nor verification. This is all the more obvious when it is realized that this honorable judge has had such long and intimate contact with one of the authors, Chester J. Dodge, who as Special Deputy Clerk of the Surrogate's Court of New York County in charge of accounting, has labored long and efficiently in the important and highly specialized field of estate accounting.

EDWARD J. O'TOOLE.\*

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### BOOK NOTE

CONCERNING ENGLISH ADMINISTRATIVE LAW. By Sir Cecil Thomas Carr. New York: Columbia University Press, 1941, pp. xi, 189.

*Concerning English Administrative Law* includes a series of special lectures delivered by Sir Cecil Thomas Carr, as a Carpentier Fund lecturer, at Columbia University in the fall of 1940. The book is most timely. The Attorney General's Committee on (Federal) Administrative Procedure recently completed its study, and made its findings and recommendations to the Attorney General of the United States. Before long, Mr. Benjamin, as Moreland Commissioner to Investigate Administrative Agencies of the State of New York, will complete his investigation, and submit his findings and recommendations to the Governor of New York. The Congress of the United States and the Legislature of the State of New York will very likely enact administrative legislation for the government of federal and state administrative agencies. A study of British experiences in the government of such agencies should be helpful in the formulation of such legislation.

In Britain, as in the United States, the administrative agency has had its foes and its friends. Lord Hewart, in his *The New Despotism* (1929), viewed with alarm the comprehensive authority delegated to administrative agencies, and their enactment of delegated legislation. Sir Cecil Thomas Carr, in his lectures of 1940, was more sanguine. He viewed administrative agencies as necessary supplements to the ordinary executive, legislative and judicial bodies. In times of crisis particularly, centralization, delegation and delegated legislation are necessary governmental *modi operandi*. But free peoples, Carr reminds us, must ever be on the alert for an unretarded restoration of their full liberties when the crisis is over.

LOUIS PRASHKER.\*

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\* Professor of Law, St. John's University School of Law.

\* Professor of Law, St. John's University School of Law.