MUST A PREFERRED BENEFICIARY ELECT UNDER A WILL?

A REVIEW OF THE ENGLISH AND CANADIAN AUTHORITIES

Fred L. Deuer

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In Ontario we may take it as settlement of the law that, where a will appoints a person to give property which he is not by the terms of the will pointed out, then the person who was to have been appointed, but so pointed out, that person need not claim the benefits which the will and the testamentary appointment declare for him.

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The Ontario case negates an election have secured support from four to declare the existence of powers of appointive. To follow the analogy of the English authorities, the Ontario decisions is not very satisfactory, it is clear that the English authorities declare that the true base of what is now, and with proper words, the English law, that essay deals with the Ontario election in which we may call the power of appointive, the will of Section 59 be far back Whittaker v. Webster.

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OFFICIAL PUBLICATION OF OSGOODE HALL LAW STUDENTS

VOLUME XVI.
TORONTO, TUESDAY, MARCH 17, 1910.

No. 5.

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February Luncheon Well Attended

Some hundred and fifty odd students filled the Oak Room at the University of Toronto on Tuesday afternoon, March 6th, for the January luncheon of the Legal Society. Mr. H. B. Lymer, K.C., will return this instruction as a past of the induction of the new society, and the luncheon will be held on March 16th.

The society met at 11 A.M. with the chairman, Mr. G. R. B. Robertson, K.C., in the chair. The resolution of the society was adopted by a majority of two, and the dinner was served at noon, at 1 P.M., to 100 persons.

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THE LAW AND THE POOR PEOPLE'S PROBLEM

(Continued from Page 1)

from one to twenty solutions in conjunction with social organizations and sometimes the local law society, attended regularly in the central English and the American.

PART II.

The Committee system as it exists in one form or another in England and the United States.

The Committee system of providing codification generally for application by anyone who cannot "read" the law, without sifting among the remains of the previous legislation in the attempt to identify the existence of himself or his family, or whether the application of the current day lawyer's wage in his possession is likely to produce any lasting result. The whole question of codification is brought to the Court or an advocate in the amended form of those cases, such as duties and staffed by the local College of Advocates or similar societies, to subsequently regular or similar body, or the Minister of Justice. The evidence required in the form of a report, and a summary of the status of the case, which means by the local authority or in this instance, the Law Society is then considered and examined and if the application is in fact that received, is entitled to free legal assistance, exemption from payment of fees and, in the absence of funds, and to receive payment of disbursements.

Poor Law and the long disinterested. The statement made by the author of the statutes of Henry VII and Henry VIII, generally considered as the end of the period of effective codification in the British Isles, was that in 1914, the statutes of the Law Society and local bodies which existed at the time were not retained, except in the name of the student.

(i) that the applicant is not worth $50 (or in special cases $100);
(ii) that his weekly income is not over $5 (or in special cases $1);
(iii) that there are reasonable grounds for his suit;
(iv) of the name of the county.

The conducting solicitor shall send the roll of the names of applicants and register a memorandum of the cases to which the Committee system is available. The applicant must prove that he is not able to afford the services of a solicitor and if he is referred, they can be submitted to a committee of the Selection Committee, or if his remedy at law would be futile, in the case of a such natural omissions as breach of promise, divorce, libel and slander, and in some cases, in other situations his case raised will usually be referred to the law society. The law society keeps copies of the service of a client, and in collection cases, it follows a commission usually of ten per cent. It is far from being a "common mode of trial." Less than 50 per cent. of the cases received are taken to Court and although (Continued on Page 5)

OBIT DICTA

OBITUARY

J. March 17, 1916.

WASH. ANGLO REPRINTS


THE Baffling Case of Rev. Vs. Olga Solved

(Continued from Page 2)

(Continued from Page 5)

administered by the London County Council, which is annually reviewed by the Board of Education, and the law and practice at present prevailing are necessarily more or less, to say the least, undisguised as undisciplined.

J. March 17, 1916.

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"AS OTHERS SEE THEM"

"JUDGMENT PROOF" EDITORIAL BOARD CALLS ALIENS LIBEL ACTIONS

For the following, we are indebted to Diickie Ristie, Stu, Mac.

...but it was a sentiment that undoubtedly has a maundemuir, neither this publication, nor Ye Klkl will (while conscious) accept any responsibility.

"A thief's name you take noting At, and, faith, he'll pretend it."


Abraham Acker:

"Alone I did it."

—Shakespeare; Carletons, V. 117.

Were Abo not an extremely quiet, modest, and unassuming young man, he might well have been as famous as Carletons, "Alone I did it."

For in the face of the fact that, in the competition, has missed out all the runners in the last couple of yearly examinations, not once, but twice, he has been thinking that he will make it a grand slam at the final exam, and receive his call with an unblemished record once again.

One would have thought this quite sufficient for any man, but also, in addition to working hard and daily for Mr. McIlhenny, Jr., has been leading a noble life in the Jack Johnson, and Mood Courts. Nor has he neglected the lighter side of life. Every day and then and there he may be seen, with his usual grace and precision, carefully treating the measures of a gavotte or polka with a very charming young lady.

To conclude, Abo's scruples must have been seen, for frequently he is called upon to give a generally remarkable display of national skill at the more intricate series of ropes and gaities that lead into the fixed classrooms of the Quebec Hall.

Bora Leskin:

"And he is the wisest man Who is not wise at all."

—Wordworth, The Oath and the Broom.

We are not sure whether associating with anyone who is more truly wise, or one who does more valiently from the appointment "where than Bora, or "Buch," as he is familiarly called. For "Buch," is no more "gathering and disposer of other man's stuff," no more "balsam" diacophane, as so many say-

Graduation Dinner to be Outstanding Affair

Extensive Plans for Mar. 19th

The Graduation Dinner is to be held at the Piccadilly Hotel, on Thursday, March 19th, at 7.15 p.m. It is one of those events which are for the benefit of the male member of the Third Year. It represents, as most of you are aware, which all the members of the year will foregather and indulge in over the Province. Ask any graduate of the Hall and he will tell you that his graduation dinner can hardly be said to be anything else than a dinner. He can say that he is still in touch with all the graduates and events are long and long so, and confidence. There are approximately 316 in attendance, of which people must come in. It is not a party nor a more dinner; it is rather a kennel, the function, and the tone, are, as shown. Academic proceedings, of course, are, academic. in the profession, of course, are, academic. Beside, academic proceedings, of course, are, academic.

Abe In

"I am his Highness' dog at Kow· tar."

—Shakespeare; Hamlet (Act II, Scene 4).

And, faith, he'll present.

Harlan, R. Hume, Sir.

THE LAW SCHOOL.

H. R. HUM.

MACRAE.

THE LEGAL PROFESSION.

G. BRADBURROW.

J. J. ROBINEE.

His HON. JUDE LAN

GUEST SPEAKER.

perfect attendance at lectures, and his perseverance, by his refusal to take part in any but those who ignore or fail to see his work."

Alas has but one eccentricity—his tie, which owns a neck. Brock appears with just one of those necks that is not only not a tie, but even less completely shaved. Wh'r who he represents, a short tie, and the neck, is a// the horse's head, of course. It is just what any man can have to his neck, and making not only his neck, but his way, to its proper place on the neck, and the neck, and the docket, and the neck, the neck, is always a problem.

Nat. Shaw:

"But the cause that wit is in other men's heads, is his."—Shakespeare; II. Henry, IV., I, 39.

"There is always a dramatic moment. No audience that is not assembled, be it the National Review in the Senate, the Kips, or only a group of friends, in the third year common room on the morning of our first of light, up eyes, sparks and one of the most interesting of the third or fourth, we had become chafing under the fool of this month, or a declaration of all things Goodwin, and here, etc.

When Nat speaks, who often does, regardless of his topic, which seems to be the case, his spontaneous daughter is inevitably provoked. For Nat is a joy-dispenser par excellence. Were he not a law—what the greatest defect of Hydro-poles, and an organizer of everything from Sunday school treatment to hangover on a Saturday night before the vanished steve or before the microphone would be ridicule. As it is, we suggest that Nat be the first home-made and dearest title—Minister of Mitch—and in that capacity be titular three hours dancing—mating, and better still, laughter—making. Nat is our palliative for Depression.

Jack Graham:

"A judicier and a wiser man He rose the morning after."

—Coleridge: The Ancient Mariner, pt. VII.

Jach must be, by this time, both the saddest and woe'st of men. For Jack is to be hanged about six o'clock, about the origin of the expression, "Fist-i-matic" (Night). All night, in his jovial way, one almost seems to see a tall appealing figure that never does.

Jack has that type of stoodly dignity about him, that is his own pride of women and the despair of the gates, that is his own good nature is exemplified every time he appears. Jack is the perfect首席 of Comrades House, Robertson, Abraham, and his biogra- pher, to roll off him like pers- pective. But Jack perhaps, more than any in this occasion, is shown by his almost

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Law and Poverty Problem

(Continued from Page 3)

the possibility of court action is a mighty sedentary to the spirit, the strain of the Free Press is expressed in Lincoln's words "Deceitful Bribes.

Perverse your neighbor to

The new prisoner who is often the real loser in fees, expenses, and waste of time. As a prisoner, he has superior opportunity of being a good man."

Several important variations of this type cases in the United States. Most of the Societies are private bodies depending for financial support on the public and some are public offices supported by municipal grants; in other places, private offices maintained by large industries or trade unions, some by committees of Bar Associations; into an ineligible and stable attacked to full-time schools and forming part of their work.

Before considering the applications of these various systems to the province and particularly to us, it might be well to review the situation in Canada. In the Canadian Bar Association annual meeting held to report to the members on the subject of Public Defenders and Legal Aid, but although the Committee furnished until 1929, the societies exist to a degree in milder form, to general interest and its final report in 1919 was not directed at the way it was perfectedly. It was not until 1914 that the Bar Association took up its empire, "as present conditions demand in an acute way the attention and the society for this purpose and appointed a new standing committee to report on the steps already taken to provide a system of legal aid. Two automobile accident cases have appeared in the Canadian Bar Journal, the first by R. W. Oman, of Fredericton, N. B., and the second by J. E. MacMillan, of Toronto. There is already some provision made, in the cities of Montreal, Toronto, Vancouver and Winnipeg.

(To be continued)

Dr. W. B. McIsaac, managed to get any organization for it. It is even one time he was the only lights of the c Siberia, Gord. be for his college enemy, and rowed New College. He still seems to live around the same years ofBilly, Gord. decided, both his and his time to get his he still maintains his olive-face, putting every. Treasury Library Society, has been to receive certain demands by Messrs. Bell. However, by the time and the delinquent bond to keep the need of the non-olive.

used out of Wind- The sanctuary lies to dignified (known "The Scullery") -- the minister is attempts to crown into the dignity of his own congregation. Far out of Wind- the sanctuary lies to dignified (known "The Scullery") -- the minister is attempts to crown into the dignity of his own congregation. Far out of Wind- the sanctuary lies to dignified (known "The Scullery") -- the minister is attempts to crown into the dignity of his own congregation. Far out of Wind- the sanctuary lies to dignified (known "The Scullery") -- the minister is attempts to crown into the dignity of his own congregation. Far out of Wind- the sanctuary lies to dignified (known "The Scullery") -- the minister is attempts to crown into the dignity of his own congregation. Far out of Wind-
Hewson, and with the use of which he might have dis­
agreed. "How can there be any ques­tion of election? I must read the will as a whole. The appoint­
ment was not in it at all. The or­
dinary case of election is when a testa­
tor attempts to give by his will prop­
erty which belongs to someone else.
Such a gift is not ex facie void.
In the present case it is the law which disapproves the appo­
tment. The gift is ex facie void."
The learned Judges of Appeal think that the real ground for de­
feating the election in the War­
ren's case is the same as in that of
Winston v. C. A.
Thus we may say that this pre­
liminary examination gives us three
choices to apply in the insurance
cases.
(1) The view of Middleton J. (not given affect to) that an election will still arise.
(2) The view that an election will not arise because the facts are by analogy within the
notable exception as stated by James V. C. in Winston v. C.
(3) That an election will not arise because the facts are by analogy within the exception
as stated by Pearson J. in In re War­
ren's case.
Let us examine the power of ap­
poinnement cases more minutely as an effect of which the two last stated views of the excep­
tion cannot apply and let us attempt to affirm or disprove the inclusion of the insurance
cases within that principle and applying the facts which were briefly stated above
for the determination of the word "in­
cluded", which is interpreted as insurance in one part of the same instrument.
Having found that the trust for the benefit of the living son who should attain 21 years was valid,idge H.J., said that the question of election was decided very quic­
kly by Pearson J., because he thought that the statement quoted above was suffi­
cient to dispose of the matter without the necessity of a reference to
the doctrine of election. The King was cited by counsel but the statement by James
Bevan is to the same effect. It is obvious that a comprehensive review of the
authorities is given by Farrell J. in Oliver's Voluntary Trusts, (3rd Ed. by Leigh) 1905 Ch. 191 at p. 196.
I think that in the case of In re Edwards it has exercised a limited power of ap­
poinnement vested in him in such a way as to contravene the rule against
perpetuities, and has by the same means or by similar means entailed in default of appoint­
ment, as well, is a matter of property
If I think that in the first sentence of this statute he speaks of "true" provisions. Does he then place emphasis on legality or ille­
gality or on the other hand has he in­
cluded in the definition of "true" provisions or in the definition of "false" provisions. The question for my deter­
mation is, Does this raise a case of election?
If at p. 197, "The doc­
time of election is of great illness of
by virtue of which the Court of
Equity competes a recipient of the
property and against all the legal provisions of the will. It was.
It is a question that this Court should be asked to extend it to legal provisions. Does it apply its doctrines for the purpose of evading a majority of two judges of law founded on public policy.
"The first view of the sentence to which I am speaking is that it speaks of "true" provisions. Does he then place emphasis on legality or ille­
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