

Province in which the property is situate. Also if the intestate left debts due him that could not be collected without suit, an administrator would have to be appointed in order to sue. And if the intestate left money in a bank, an administrator would have to be appointed in order to draw it out, unless he left a signed cheque covering the amount, or a signed cheque in blank, or gave a power of attorney to someone to draw the money from the bank.

Administrator is the one appointed by the Surrogate Court or Court of Probate to settle the affairs of the estate of a person who dies without leaving a will, or neglects to name an executor in his will, or names one who refuses to act.

In Newfoundland the Supreme Court and in Yukon the Territorial Court grants letters of administration and probate.

The regulations in each of the Provinces concerning the settlement of estates vary considerably, as also do the succession duties; hence, it is advisable for a person acting as an executor or administrator to either consult a lawyer or take full instructions from the office where wills are probated.

But a person dying intestate and leaving real and personal property, it is not legally compulsory for any of the heirs to take out letters of administration. If the heirs can all agree as to the distribution of the property among themselves, they can draw up an agreement to that effect, which, being signed by all, and sealed, will bind all to abide by it. And if land is to be sold the widow and heirs all joining in the deed give a good title. Providing all are of full age.

An administrator's duties are exactly the same as those of an executor, so are his liabilities. An administrator must, however, give a bond for the due performance of his trust, while an executor usually need not do so.

In case a will is made, but no executor appointed in it, the administrator must carry out its provisions the same as an executor would do.

As soon as an administrator is duly appointed he will take possession of the property and divide it according to the Statutes, or Will, if there is a will. A child, husband, wife, or any other person who may chance to be in possession, has no more authority over the property than others, unless they have a valid lease, in which case they may hold it until the lease expires, unless sooner terminated by mutual consent.

Where an intestate dies leaving property and there are no known heirs, a creditor (if any) may apply for letters of administration. The Attorney-General is the proper person to take charge of such estates, who will attempt to discover heirs.

In cases where no will is found, or persons claiming to have the will and refuse to read it, any of the heirs or next of kin may apply to the Surrogate Court for letters of administration, and to secure an order for the production of any supposed will and to examine witnesses therewith.

In Ontario an amendment of 1909, chap. 32, provides that letters of administration shall not be granted to any person not a resident of Ontario.

Distributing the Estate.—Executors must remember that legatees are not required to demand payment, but it is the executors' duty to pay the legacies to the rightful persons. Moneys due legatees who cannot be found must either be retained, or safely invested, or paid into court in order to free themselves from personal liability.

Executors must also remember that they are to pay the legacies and the debts of the testator only. If the same person were executor for both husband and wife he must not mix the money of the two estates; for debts, funeral expenses, and legacies of each must be paid out of the proper estate.

Personal property of the deceased is the proper fund out of which debts are to be paid and not out of real estate. If that is not sufficient then any other property that has not been "specially bequeathed" to any person should be resorted to, then after that the property "specially bequeathed" is available.