

PART III: BOOK REVIEW

Probate Practice, 5th ed. (Toronto: Thomson Reuters Canada Limited), Ian M. Hull and Suzana Popovic-Montag (eds), *Macdonell Sheard and Hull*

By Andrea McEwan

Ian Hull and Suzana Popovic-Montag have recently updated the Fourth Edition on Probate Practice, authored by Rodney Hull Q C, and Ian Hull, and originally authored by Macdonell, Sheard and Hull. The Honourable Ian Macdonell, Terence Sheard Q.C., and Rodney Hull Q.C., have since passed away, yet their notable book - often referred to as **The Book** on Probate lives on. The new edition provides an up-to-date, comprehensive and hands-on guide to estate administration.

While the book deals primarily with estate administration in Ontario, it is not exclusive and provides reference to all of the other jurisdictions in Canada. The book covers a broad range of topics, including:

- Courts of Probate;
- Testamentary Capacity, Undue Influence, Fraud and Mistakes;
- Support of Dependants;
- Form of Will;
- Common Form Practice;
- Conditional or Contingent Wills, Joint Wills and Mutual Wills;
- Passing of Accounts;
- Costs; and
- Solicitors Fees.

The publication is broad in scope, and provides sufficient detail on each topic, including the relevant legislation, applicable rules and case law. Each chapter is practical, concise and easy to read. It has extensive appendices that include forms, precedents and checklists, each of which are cross-referenced in the body of the text. Of particular interest were the precedent Order Giving Directions and the Mediation Checklist.

The section dealing with progressive dementia alerts the reader to types of issues faced when dealing with someone with a progressive dementia, including whether a testator's mental deterioration has deprived him or her of testamentary capacity and the policy goals of modern legislation. Given our population demographics these types of cases are increasingly common and will become more so in the coming years.

There is an excellent explanation of suspicious circumstances and the burden of proof included in the chapter on Testamentary Capacity. The text highlights that the burden of proof on those alleging undue influence or fraud remains with them throughout. The section on fraudulent concealment is equally helpful.

The chapter on Passing of Accounts takes the reader through the legislative and common law framework for a passing of accounts. It addresses both voluntary and compelled passing of accounts, the power of the judge on a passing of accounts, the effect of judgment on passing and releases, among other topics.

This publication is a valuable resource for anyone practicing in the area of estates law, whether in administration or litigation, and should be required reading for new and seasoned lawyers alike. This book provides the foundation of probate law from Planning, Administration, to Litigation.

Ian Hull is a partner at the firm of Hull & Hull. He practices exclusively in the area of estates, trusts and capacity litigation. Suzanna Popovic-Montag is the managing partner of Hull & Hull LLP. She practices exclusively in the area of estates, trust, capacity and fiduciary litigation. Both are experienced practitioners who write and speak frequently on a variety of topics.