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The Insurance Commissioner in the United States, by Edwin Wilhite Patterson (1927)

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The election may consist of the retention of money where its payment can only be referred to provisions of the will. *Sherman v. Flack*, 283 Ill. 457, 119 N. E. 293, 5 A.L.R. 496 (1918) *Martien v. Norris*, 91 Mo. 465, 3 S. W. 849 (1887). Where the payment of money can be referred to some other obligation it will not constitute an election under the will. *In re Beck's Estate*, 265 Pa. 51, 108 Atl. 261 (1919). If payment can be referred to a gift it will not constitute an election. *May v. Jones*, 87 Iowa, 188, 54 N. W. 281 (1893). It is a general rule that if the legacy is equal to or greater than the debt it will be deemed to be in satisfaction of the debt. *Fetrow v. Krause*, 61 Ill. App. 238 (1895) *Buckner v. Martin*, 158 Ky. 522, 105 S. W. 665, L.R.A. 1915B, 1156 (1914). The general rule will not be applied where the language of the will excludes the inference that the testator intended the legacy to go in satisfaction of the debt. *Reynolds v. Robinson*, 82 N. Y. 103 (1880). Where the legacy is smaller than the amount of the indebtedness there will be no presumption that the legacy was in payment of the debt. *Fetrow v. Krause*, supra, *Rusling v. Rusling*, 42 N. J. Eq. 594, 8 Atl. 534 (1887) *Matter of Sherman*, 53 N.Y.S. 376 (1898). The view adopted by the Washington court in the principal case is, therefore, in accord with the authorities.

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actuaries, deputies and clerks. The commissioner is usually an appointed official and is invariably chosen for political reasons. The chapter also includes an interesting summary of the practices of the states in regard to the titles of the officials, methods of selection, qualifications, term, compensation and subordinates.

The next subject which Professor Patterson discusses is the insurance commissioner's activities in the licensing of those engaged in the business, the control of the financial conditions of the insurers, the control of policy forms, the control of rates and premiums, the control over payment of private contract claims, and the control over business-getting methods. This chapter would prove the most interesting and informative to a reader with a limited amount of time.

Then in Chapter IV the author gives a descriptive account of the inquisitorial and visitorial powers of the insurance commissioner, as legal devices which he uses to attain his ends. The commissioner has a liberal use of power in this capacity. He may lawfully demand of insurers voluminous reports of their financial standing, or he may enter the office of a domestic company and examine whatever he may desire. Moreover, he has the power to collect from the insurers the expenses of such examinations.

In Chapter V is an excellent discussion of the administrative procedure in regard to complaints, hearings and decisions. In general this procedure is very informal, and depends usually upon the discretion of the commissioner. The enforcement of the commissioner's decisions, rules and orders is accomplished through administrative and judicial action. The author gives a complete discussion of these two methods from a legal standpoint.

In the last chapter the author tells of the control of administrative action from non-judicial and judicial sources. Under non-judicial control is considered the influence of the public. As a rule, the commissioner is immune from executive control. On the legislative side he is bound by detailed regulations, although he generally helps to make them. Also, there is a control exercised by the commissioners themselves through the activities of the National Conventions of Insurance Commissioners. Judicial control is the most direct and effective check on the insurance commissioner. This control is in the nature of a brooding omnipresence, rather than a ubiquitous censor.

The book has several interesting appendices. Appendix A contains a short history of the administrative control of the insurance business. In Appendix B is an interesting discussion of how the author obtained the material for the book. A complete table of cases is also included.

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