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BOOK REVIEWS

Administration of Estates in North Carolina. By Robert D. Douglas. Charlottesville: The Michie Company, 1948. Pp. xv, 278. \$7.50.

There has been a long-felt need among the members of the Bar for an authoritative, up-to-date text on that phase of the North Carolina law which deals with the administration of decedents' estates. While it is obvious that the body of the law governing decedents' estates is largely statutory, these statutes are scattered throughout the Code in such a manner as to make it difficult for the student or the practitioner to get a unified picture of the various processes involved in the settlement of an estate. Hence the need for a work which gathers them together, analyzes and collates them, and presents the cases wherein they have been judicially construed.

If one expects to find Mr. Douglas' book a comprehensive, definitive treatise on the administration of estates in North Carolina, he will be disappointed. The author, in his preface, disillusiones one who entertains any such expectations by stating that: "It lays no claim to be a comprehensive and fully annotated treatise covering every possible phase of the subject. . . . Its object is rather to be a practical handbook which will aid the inexperienced younger members of the bar and save time and research on the part of the older members." In writing such a handbook the author has done an excellent job, and the work should serve a useful purpose within the limits prescribed by him.

In the opening chapter the author presents "a general summary, chronologically arranged, of the various matters to be considered and things to be done in the administration of the average estate, with reference to succeeding chapters which severally treat in more detail the various subjects." This summary is good; and it immediately emphasizes the author's avowed practical approach to his subject. The reader at the very outset gets a well-rounded picture of the various steps to be taken in the settlement of a decedent's estate—from the probate of a will or the appointment of an administrator to the rendition of the final account, the settlement, and the discharge of the personal representative. As suggested immediately above in the quotation from Mr. Douglas' preface, the succeeding chapters of the book analyze and discuss in somewhat detailed fashion the legal problems involved in the successive steps to be taken in administering an estate, such as the qualification of an administrator, bonds, inventories, notice to creditors, sale of property, payment of debts, etc. The author analyzes the stat-

utes governing each problem and documents his analysis with decisions of the Supreme Court which have construed the statutes. And, throughout the book in connection with various problems he makes practical suggestions, drawn from his long years of experience as an active practitioner, which are extremely helpful, especially to the inexperienced attorney. In the administration of estates, as in other fields of practice, the law is not always clear as to the exact procedure to be followed in a given situation. Especially valuable are his discussions of caveats, dower, accounts, estate and inheritance taxes, administration of estates of missing persons, estates by entireties, and the recently enacted Uniform Simultaneous Death Act.¹

In writing this book the author has taken the statutes and decisions of North Carolina as they are and has stated them with an admirable degree of accuracy. He has made no attempt to analyze the statutes critically nor to appraise them in the light of much needed reform with respect to some of them.² These things were beyond the scope of his project. He has, however, written in a remarkably simple and lucid style a handbook on the administration of estates in North Carolina which should prove most helpful both to law students and practitioners. One can only hope that, with this good foundation upon which to build, Mr. Douglas will some day write a definitive and critically analytical treatise on the same subject.

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The Social Politics of FEPC: A Study in Reform Pressure Movements. By Louis Coleridge Kesselman. Chapel Hill: University of North Carolina Press, 1948. Pp. 253. \$3.50.

In June, 1941, President Roosevelt issued Executive Order No. 8802, setting up a Fair Employment Practice Committee to "receive and investigate complaints of discrimination" in employment in defense industries on account of race, creed, color, or national origin, and to take "appropriate steps to redress valid grievances." Behind this move was a significant example of pressure tactics. Our national "arsenal of democracy" program was creating a tremendous demand for labor, but Negro leaders observed that little change was taking place in the traditional pattern of race discrimination in employment. Philip Randolph, an outstanding Negro leader and head of the Brotherhood of Sleeping Car Porters, conceived the idea of a gigantic March on Washington to dramatize the demands of Negroes for equality in employment. The

¹ N. C. GEN. STAT. §§28-161.1, 28-161.7 (1943).

² See REPORT OF THE COMMISSION ON REVISION OF THE LAWS OF NORTH CAROLINA RELATING TO ESTATES (1939).

idea spread and plans were perfected as mass meetings were held in various cities. President Roosevelt, aware of the fact that a March on Washington might eventuate in anything from a slight embarrassment to a serious race riot, struck a bargain with Randolph and the other Negro leaders. If they would call off the March, he would issue an order creating the FEPC.

FEPC was beset by numerous difficulties from its beginning. Even after we entered the war, there was only token compliance with the spirit of Executive Order No. 8802. Therefore various Negro organizations and other friendly agencies began a campaign to strengthen FEPC. One aspect of this campaign took the form of urging larger powers and better administration for FEPC. The agency was transferred from its original base in the Office of Production Management to the War Production Board and then to the War Manpower Commission. Finally, in May, 1943, Executive Order 9346 placed it in the Executive Office of the President, enlarged its functions, and opened the way for a more adequate budget. However, enforcement difficulties continued. Employers and unions rather generally disregarded FEPC compliance orders, and government agencies themselves were unwilling to make use of sanctions in the non-discrimination clauses of their contracts for fear of impeding war production. A further indication of the insecure status of this war-time agency is seen in the fact that in its relatively short life it had four different chairmen.

Another aspect of the pressure campaign was the effort to obtain congressional legislation which would make FEPC a permanent statutory administrative agency with definite powers of enforcement. From 1942 onward, various FEPC bills were introduced in Congress. All of these were either blocked by the Rules Committee or filibustered to death by the Southern Democrats. Indeed, the resentment of the Southern Democrats toward any kind of FEPC became so intense that they succeeded in cutting the Committee's appropriations so drastically in 1945 that the agency was not able to survive the next fiscal year. In the meantime, however, a National Council for a Permanent FEPC had been organized to coordinate the efforts of numerous agencies which were interested in promoting some kind of federal FEPC legislation. Dr. Kesselman's book is concerned with the National Council's unsuccessful crusade and its virtual collapse, as a case study of an important contemporary reform pressure movement.

The author's thesis is that "in order to determine the basic reasons for the movement's failure at the time of writing, attention should be centered largely upon the forces which sought to persuade Congress to enact the desired legislation, rather than upon parliamentary maneuvers."

His task, as he saw it, was thus largely one of analyzing the inner workings of the National Council, together with the personal, organizational, and ideological factors which made for cohesion or for conflict. His main source of information was the files of the National Council itself. Much of this material is personal, even embarrassing, and it was probably not meant to see the light of day, but its use enables the author to give a highly interesting account of what went on behind the scenes. The very fact that the author was given complete access to the files is in itself a commentary on the lack of cohesion and morale in the staff of the National Council for a Permanent FEPC.

Part I of this work is entitled "Discrimination in Employment." Here the author relates the background which we have sketched above, tells how the National Council was set up in 1943, describes the methods of "beating the brush" for the purpose of setting up local councils across the nation, and discusses the problem of "greasing the wheels" financially. From the very beginning, personal conflicts and strategical errors handicapped the movement. Philip Randolph, who felt that the President's FEPC was his own creation, was the organizer and chairman of the National Council. A confirmed Socialist, a bitter opponent of the Communists, naïve in political techniques, and a somewhat cold and aloof person, Randolph indelibly stamped his personality traits upon the National Council. For one thing, he was never willing or able to share the spotlight with Walter White and the National Association for the Advancement of Colored People, with the result that this powerful agency was not fully integrated with Randolph's National Council. Also Randolph was interested in so many "causes" that he frequently neglected the Council at crucial moments.

As for local councils, although one hundred were set up in thirty-four states, many of them were loosely organized, and some of them were sponsored by "the wrong people," as far as the National Council was concerned. Certain well-established organizations were reluctant to cooperate because they wished to conduct FEPC campaigns through their local branches in their own ways. The National Council, lacking adequate funds and personnel, found itself in the embarrassing position of not being able to service the locals effectively. However, as the author points out, the local councils stimulated a good deal of enthusiasm for FEPC legislation and raised forty per cent of the total contributions to the National Council.

The National Council also suffered from financial malnutrition. For months after it was formed the organization had only a token existence because it lacked funds. Almost every known device for money-raising was employed in the hope of raising at least \$500,000, yet the total

amount collected from November 1943 through June 1946 was only \$132,700. Few wealthy "angels" were willing to contribute to the FEPC cause. Organizations which could have contributed generously gave sparingly. The powerful CIO unions, for instance, which prided themselves on their policy of non-discrimination, gave a mere \$2,700, either because they lacked confidence in Randolph or because they resented his refusal to accept Communist assistance. Even some of the national Negro organizations were conspicuous for their non-cooperation. Furthermore, the Council found that it was expected at times to be on the "giving" end. Senator Chavis, a leading FEPC proponent, asked for \$5,000 in his campaign for re-election. He got \$500. Another Senator, wisely left unnamed by the author, made a speech in Chicago for the Council and submitted an expense account of over \$200, including a one-night hotel expense item of \$53.30. A check on the latter item allegedly showed that it was actually \$9.20!

In Part II, entitled "The Factor of Social Cohesion," the author examines the relation of the National Council to various minority groups and to civic, religious, and labor organizations, with some attention to the opposition to FEPC. Negroes in general had an intense interest in a better economic status. However, the National Council for a Permanent FEPC was operated by middle and upper class people, and its structure was not that of a mass membership agency but an organization of organizations. Some of the constituent Negro agencies could lend only moral support because they were committed to non-political methods; others did not like Randolph or his mushroom March on Washington Movement; and still others simply preferred to work in their own fashion. Much depended upon the personalities of the top men.

The Jewish minority, which also has a real stake in fair employment, cooperated in the crusade, although certain Jewish leaders had serious doubts as to the ability and judgment of the National Council's staff. Church groups, except in the South, were in general very helpful in applying pressure on Congressmen and in giving the movement an ethical basis. Labor, torn by internal dissension over Communism and cool, as was the AFL at least, toward an FEPC law which would prohibit discrimination by unions, was slow to warm up, but in the end lent valuable support. Communist agencies, deliberately left out by Randolph, sniped at the National Council and followed policies which often conflicted with those of the Council. Numerous liberal and equalitarian organizations cooperated with the Council, but all too frequently they depended upon exhortations for "fair play," and occasionally one was suspected of selfish motives. For example, a Council field

agent accused the Southern Conference for Human Welfare of "trying to get the same people on whom we depend for support to finance the Conference's coming into Texas on the strength of what they might be able to do for FEPC."

In short, the National Council was trying to coordinate the activities of agencies having a wide assortment of ideologies and notions about strategy. Perhaps the task was impossible. Certainly it was not helped any by Randolph's tendency to run the Council as he saw fit.

In Part III Dr. Kesselman deals with "The Factor of Communication," that is, the process of "selling the public" through press, radio, pamphlets, mass meetings and the like, and the techniques of influencing the attitudes of political leaders. The author finds that the selling program was inadequate to cope with public apathy and opposition, so that the public for the most part remained unconvinced of the desirability of FEPC. As for the pressures on political leaders, they effected a few "conversions," influenced the national party platforms in 1944, and elicited favorable public statements from Roosevelt, Truman, Dewey and others, but they did not break the filibuster in Congress. Thus the drive for FEPC legislation failed.

In a concluding chapter, "Retrospect and Prospect," the author evaluates the reasons for the failure of the FEPC drive. "Reform movements, no less than the powerful economic pressure drives," he says, "fail to exert maximum influence in politics because of internal shortcomings and divisions, as well as the counter activities of opposing groups. The National Council was certainly no exception to this general rule." Looking ahead, the author points out that the National Council for a Permanent FEPC has been reorganized under a new chairman, that it will attempt to operate on a more representative and democratic basis, and that it will probably back a bill which is somewhat less drastic than its predecessors. He concludes by saying, "In the end, however, adequate planning and machinery for political pressure will be more important than moral claims in securing the passage of a federal FEPC."

The major weakness of this book seems to lie in the frame of reference which was cited earlier, namely, that the basic reasons for the failure of the FEPC drive are to be found in the forces which sought to influence Congress. Certainly this is a part of the story, but is it the whole or even the chief explanation? The reviewer is convinced that even if the National Council had had a million dollars and had functioned with maximum cooperation, a federal FEPC law would not have been passed. It was simply not "in the cards." The opposition, though not bitter and articulate, except in the South, was nevertheless

strong, and considerable time and educational work will be required to counteract it. The author, it is true, devotes a brief chapter to the opposition and mentions it elsewhere once or twice, but he does not set it in its proper perspective in the total picture. However, such a criticism does not alter the fact that the author has given us a brilliant analysis of the internal relations and the strategies of an important social pressure movement. Dr. Kesselman and the University of North Carolina Press are to be congratulated for producing this significant and attractive publication.

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