

New York Law of Wills, Descent and Distribution (Book Review)

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As to the cases deleted there are none the absence of which will be much lamented, and the removal of others will be applauded because they were repetitious and detracted from the book. However, in an effort to present a compact book, the author has on occasion excised portions of the principal cases which were printed in the prior edition, the obvious purpose being to include only that part of the court's opinion dealing with the precise question being studied. I am not in full agreement with this because, as in *Barnes v. Wood*, the portion deleted often presents an opportunity to the student to review principles previously considered.⁴

Finally, the author in the interest of saving space has removed all illustrations from this edition. I am not convinced of the wisdom of this judgment. I am sure that the student considering the issues presented in *Lumley v. Wagner*⁵ will, absent a picture of Miss Wagner, be less quick to comprehend the characteristics of uniqueness than his older brother who had a book with her incomparable visage therein inspiring him in his course of study. Similarly, without a picture of George Jessel, Master of the Rolls, a student conceivably might identify him with the latter day Jessel, noted Master after the Rolls.

In summary, Professor Re has prepared an edition which is sharply focused to the subject presented and, in my opinion, is a markedly better edition than the last.

JOSEPH R. CROWLEY.*



NEW YORK LAW OF WILLS, DESCENT AND DISTRIBUTION. By George F. Keenan. New York: Dennis & Company, 1958. Pp. xii, 538. \$10.00.

The volume under review first appeared in 1940 as a compilation of "Cases on Succession" edited by the noted Professor William K. Laidlaw of the University of Buffalo School of Law. The quality of the original work is attested to by the fact that it has been in constant use in several law schools for a generation. No doubt the passage of time and the constant flow of both legislation and decisions have prompted the current revision. It is the object of this review to catalog and evaluate the changes made by the present author, Professor George F. Keenan.

⁴ P. 537.

⁵ P. 266.

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The main changes have been effectuated by way of substitution and supplementation of case and footnote material. Thus, for example, several notes have been added to the section on conflicts of law. Interesting material has been inserted in the chapters dealing with the slaying of the decedent, vesting of legacies, and characteristics of a will. The segment of the book treating the all-important right of election under section 18 has been greatly enhanced by the addition of the *Matter of Halpern*¹ and *Matter of Shupack*² decisions, as well as material on the rights of the first and second wives of the decedent with respect to the election. The statutory changes in the area of bequests to unincorporated associations are noted. Recent developments in the law of publication and request to witness are set forth by way of the addition of *Matter of Pulvermacher*³ and *Matter of Levine*.⁴ Other changes and additions too numerous to mention have been made. Suffice it to say that the innovations already mentioned indicate that Professor Keenan has a thorough grasp of the subject matter and is adept at selecting the relevant from the avalanche of decisions handed down annually.

In the main, the original outline or format of the work has been retained. The author first treats the family exemption, dower and related matters, and then takes up intestate succession. This is followed by an omnibus section covering "Matters Affecting Succession Whether by Descent and Distribution or by Will," wherein such subjects as conflicts of law, simultaneous death, etc. are examined. The next chapter, labelled "The Right to Dispose by Will," covers the election by the surviving spouse, charitable bequests, contracts to make a will, and other matters. The last and major portion of the book is devoted to testamentary capacity, due execution, revocation and republication, and devises and legacies. Some may question the advisability of treating such complex matters as conflicts of law so early in the book. Others may say that the right of election and the incidents of joint and mutual wills and contracts to make a will should only be taken up after the material on due execution. However that may be, the author's arrangement is a logical and orderly development of the subject matter and has withstood the test of time.

Coming to the physical makeup of the book, we find that the author has wisely retained and updated the selected statutes which formed the appendix to the original edition. Although this may not be too common a practice in the casebook field, it certainly seems worthwhile to make the statutory framework readily accessible in order to facilitate understanding of the decisional gloss. The model

¹ 303 N.Y. 33, 100 N.E.2d 120 (1951).

² 1 N.Y.2d 482, 136 N.E.2d 513, 154 N.Y.S.2d 441 (1956).

³ 305 N.Y. 378, 113 N.E.2d 525, 157 N.Y.S.2d 577 (1953).

⁴ 1 App. Div. 2d 778, 147 N.Y.S.2d 653 (2d Dep't), *aff'd*, 2 N.Y.2d 757, 138 N.E.2d 812, 157 N.Y.S.2d 577 (1956).

will has also been retained. Perhaps the reviewer does the author a disservice by calling it a model will when it is set forth under the caption, "A Will." However, it is obvious to even the casual reader that the instrument is presented not as a complex piece of draftsmanship, but rather as a cadaver for the student to examine and operate on. An innovation on the earlier edition is provision for future pocket parts. The decision of the Court of Appeals in *Matter of Iwie*,⁵ handed down after the book was in print, indicates the usefulness, if not the necessity, of having such a supplement.

In conclusion it may fairly be stated that the book is well written and edited. Typographical errors are almost nonexistent and the type is easy to read, with the possible exception of the smaller footnote print. The book admirably covers the assigned ground in a compact yet comprehensive fashion. Its continued use in the classroom seems assured. Its value to the general practitioner as a starting point for research would warrant its inclusion in his library. In a word, the work is a worthy successor to its predecessor.

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⁵ 4 N.Y.2d 178, 149 N.E.2d 725, 173 N.Y.S.2d 293 (1958).

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