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Handbook of the Law of Wills (Book Review)

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that "there is little in modern currency and banking practice which has not been tried some time in the past"; that credit instruments "came into being long before money was coined"; that clay tablets and fragments "show conclusively that promissory notes, bills of exchange, and transfer orders similar to modern checks and bank drafts were in common use in Assyria in the eighth century B. C.," that banking, "in a limited sense, antedated both banks and bankers," and that as "early as 2000 B. C., the Babylonian temples were doing a rushing business in lending gold, silver and other wealth which had been left in their safekeeping." Because of these and kindred discussions the book will be of assistance to the student of the law of bills and notes. The several pages devoted to the "clearing house" contain much that is of practical help to the student of the law of negotiable paper. To the student of the law of trusts the chapter on "Fiduciary Services of Banks" will prove enlightening.

A prodigious amount of labor went into the preparation of this volume. Within the limits of a book review the scope and merits of this work merely can be alluded to. While not primarily written for the lawyer, every lawyer should read it for a greater informational background.

DAVID STEWART EDGAR.*

HANDBOOK OF THE LAW OF WILLS. By Thomas E. Atkinson. St. Paul: West Publishing Co., 1937, pp. i, 800.

This book is quite worthy of a place in the Hornbook Series and while it purports to be intended for the use of law students, it will undoubtedly be of very considerable value to practising lawyers, particularly those whose contact with estate work is occasional rather than a matter of specialized practice. The author discloses a very thorough knowledge of the statutes and decisions pertaining to the subject on which he writes, and his comments thereon and many of his suggestions are most instructive and illuminating.

The main title of the work is, however, somewhat misleading because its first one hundred seventy-eight pages are substantially devoted to a review of the history of Wills and of English and American rules pertaining to intestate succession and limitations upon the right to devise. Again, the last five chapters of the work, covering some three hundred fifty-five pages, pertain rather to what is commonly designated "Probate" or "Surrogate's Court" practice as distinguished from the substantive law of Wills.

It is true, and this fact probably influenced the author in so arranging his book, that in many law schools throughout the country, the subject of the substantive law of Wills is not taught as a separate course and that the adjective phase of the subject is either omitted entirely or is briefly included in some general practice course. With the growing importance, because of existing and prospective tax legislation affecting decedent's estates, to say nothing of the growing tendency more definitely to control, by statute, *post mortem* dis-

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positions of property, the subject of the proper drafting of Wills and of the ultimate effect thereof upon the distribution of such property as was owned by the testator in his lifetime, is assuming a new importance.

The reviewer cannot, however, escape the conclusion that the author would have served his intended readers better had he not attempted to combine into one volume, both the substantive and the adjective law on his subject. From a purely scholastic standpoint, it is the reviewer's opinion that the work would have been more useful in the field in which it is intended to be chiefly used had the author set out, either in the text or in footnotes, the actual provisions of the statutes of the different states which he mentions. After all, it must be remembered that many law students throughout the country have not available, in their local libraries, the statutes of all the states. Where, as in the law of Wills, many of these statutes are intrinsically very different, it would seem that an actual quotation of the text thereof would give a reader a better understanding of the principle enunciated by the author and of the distinction between the rights conferred in one state upon, let us say, a widow and those given her under the laws of another jurisdiction.

Perhaps, the same criticism might be urged regarding the citation of cases. The author, time and again, makes a statement which he educes from the holding of a leading case and yet he quotes none of the pertinent facts of the case nor of the actual phraseology of the court. It seems, therefore, to the writer that the principal purpose this book will serve is as a sort of a judicial Baedeker to guide the law student who is seeking the rules of a particular jurisdiction regarding some phase of the law of Wills or of the administration of a decedent's estate, either as the result of a testamentary instrument or as the result of intestacy.

In this respect, the work will be exceedingly useful to law students and to many practising lawyers as well, because in it are to be found cited almost all of the leading cases throughout the country affecting the subjects discussed. In other words, this work, in less than eight hundred pages of easily readable text, documented with adequate and full source references, constitutes a most thorough and painstaking digest of the subject of the disposition of a decedent's estate, as well as many helpful suggestions concerning the proper drafting of Wills to accomplish a testator's wishes within the scope of existing substantive law and of the application thereof by probate or Surrogate's Court.

The author and publisher are both to be complimented most highly upon a work well done. Indeed, the adjective phase of the subject, as outlined in the book, could easily be developed into another most useful volume provided the statutes of the different states applicable thereto were set out and the differences in their phraseology and legal effect explained.

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