

Foreword to Proposed Changes in the New York Rule Against Perpetuities

Maurice Finkelstein

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Foreword

IN the December, 1930 issue of the ST. JOHN'S LAW REVIEW, I took occasion to point out the advisability of an objective study of all the evidence before any recommendation could be made with regard to the repeal or modification of the New York rule against the Suspension of the Power of Alienation. Such a study has been made by Professor Franklin F. Russell who has been in the forefront of the movement to repeal the New York rule. I am not sure that his conclusions do not boil down to the single proposition that the impossibility under the present decisions of the court of creating trusts for more than two lives with cross-remainders in trust, is the chief disadvantage of the present rule. But even at that, it would appear to be a serious disadvantage and one which would justify the substitution of the common-law rule. I am sorry that the impression has gone forth that in the paper which I published last year in the pages of this Review I contended against the repeal of the New York rule. My only point there was that action should not be precipitate and moreover I wished to point out that some of Gray's arguments were not very powerful, viewed in the light of experiences since his day.

I believe Professor Russell has adequately stated the issues and I think that a careful study of his paper will lead to the conclusion that the present rule ought undoubtedly to be repealed.

MAURICE FINKELSTEIN.

St. John's College School of Law.