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Foreword

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Foreword

This symposium is designed to bring together outstanding legal writing in the field of Wills and Administration of Estates in memory of the late Dean Alvin E. Evans who died on June 17, 1953.

The first articles deal with the history of the law of wills and intestate distribution and relate the historical development to the modern law. Dean Alison Reppy of New York Law School throws new light on the historical development of the modern law of succession, and Professor Bertel Sparks of New York University School of Law, a former student of Dean Evans, writes on the history of the law of contracts to devise or bequeath property.

Then follow articles on various problems in wills. Professor Thomas E. Atkinson of New York University, noted teacher and author in the field, analyzes the law governing probate of part of a will. Professor John E. Howe of St. Louis University, a former student and colleague of Dean Evans, points out certain injustices in the present rules regarding renunciation by devisees and legatees but not by heirs. Professor Robert C. Bensing, also formerly associated with Dean Evans at Western Reserve University, analyzes the considerations affecting the surviving spouse's right to elect against the will where there has been a previous inter vivos transfer. Mr. Gilbert T. Stephenson, an attorney and lecturer in law at Wake Forest College and author of several treatises on Wills and Trusts, discusses legal aspects of investment provisions in wills and trust agreements.

Three articles on practical problems in the administration of estates are included. Mr. Bart A. Brown of Louisville, banker-lawyer in the field of trust administration, provides practical suggestions and a check-list for use by attorneys in the settlement of estates. Mr. Pierce Lively, of the Kentucky Bar, discusses the statutory priority in the right to administer estates. Mr. R. G. Patton, who worked with the committee which drafted the Model Probate Code and is now with the Land Registration Department, Hennepin County, Minneapolis, Minnesota, treats problems

FOREWORD—Continued

stemming from the omission of realty in probate administration. Of special interest to Kentucky lawyers is a survey of recent developments in the Kentucky law of wills and intestate distribution, in which the faculty editor and student editor-in-chief have collaborated. The symposium concludes with seven student notes and comments on various phases of wills law.

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The death of Dean Evans has taken from the wills and administration field one of its leading authorities whose writings and teachings will long continue to influence judicial and scholarly thinking on the subject. Dean Evans began teaching Wills while on the faculty of George Washington University during the years, 1922-1927, and taught the subject at the University of Kentucky from 1927 until his retirement there in 1949 and subsequently at Saint Louis University from 1950 until 1953.

Although Dean Evans' published articles in the wills and administration field were written at various times and reflect a wide variety of interest within the area, when taken together they form a collection which covers almost as wide a range as the usual treatise.

Two early articles deal with the execution of wills:

The Competency of Testamentary Witnesses, 25 Mich. L. R. 238 (1927).

Incidents of Testamentary Execution, 16 Ky. L. J. 199 (1928).

The following articles study various aspects of construction of wills:

Incorporation by Reference, Integration and Non-testamentary Act, 25 Col. L. Rev. 879 (1925).

Conditional Wills, 35 Mich. L. Rev. 1049 (1937).

Irregularities of Testamentary Expression, 27 Ky. L. J. 241 (1939).

The First Words in a Deed and the Last in a Will Prevail, 28 Ky. L. J. 45 (1939).

Concerted Wills, A Possible Device to Avoid the Wife's Privilege of Renunciation, 33 Ky. L. J. 79 (1945).

Concerted Wills, again, 35 Ky. L. J. 214 (1947).

FOREWORD—Continued

Non-Testamentary Acts and Incorporation by Reference,
16 U. of Chi. L. R. 635 (1949).

Six articles are on the subjects of testamentary revocation,
 republication and revival:

Testamentary Republication, 40 Harv. L. Rev. 71 (1926).

Testamentary Revival, 16 Ky. L. J. 47 (1927).

Testamentary Revocation by Subsequent Instrument, 22
Ky. L. J. 469 (1934).

Testamentary Revocation by Adoption of a Child, 22 Ky.
L. J. 600 (1934).

Testamentary Revocation by Act to the Document and De-
pendent Relative Revocation, 23 Ky. L. J. 559 (1935).

Testamentary Revocation by Divorce, 24 Ky. L. J. 1
(1935).

Aspects of descent and distribution are treated in two articles:
Certain Evasive and Protective Devices Affecting Succes-
sion, 32 Mich. L. Rev. 478 (1934).

The Ancestral Estate Law of Kentucky, 7 Ky. Bar. Ass'n. J.
Nos. 4, 15 (1943).

Numerous articles were published relating to probate and
administration:

Contractual Obligations and Transfers of Personal Repre-
sentatives, 7 N. Y. U. L. Q. Rev. 17 (1929).

Survival of Claims for and Against Executors and Adminis-
trators, 19 Ky. L. J. 195 (1931).

The Payment of Legacies, 2 Idaho L. Rev. 163 (1932).

The Survival of Powers of Joint Executors to Sell Land, 85
U. of Pa. L. Rev. 154 (1936).

The Intermeddler and the Fraudulent Transferee as Exe-
cutors, 25 Geo. L. J. 78 (1936).

The General Powers and Relations of Coexecutors, 14
N. Y. U. L. Q. Rev. 127 (1937).

Apportionment of Compensation of Co-Executors, 25 Ky.
L. J. 258 (1937).

The Venue of Probate Proceedings in Kentucky, 6 Ky. Bar
J., no. 1. 13 (1941).

FOREWORD—Continued

Torts to Expectancies in Decedents, Estates, 93 U. of Pa. L. Rev. 187 (1944).

The Probate of Lost Wills, 24 Neb. L. Rev. 283 (1945).

This symposium was undertaken with the idea that the publishing together of some of the best current work in the field of wills and estates would focus attention upon the remarkable contribution of Dean Evans and the warm esteem with which he is held by his colleagues in the field today.

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Faculty Editor