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## Book Review: A Treatise on the Law of Wills

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generally been to refer to the various statutes and rules at the beginning of each chapter or subdivision of a chapter. It will be interesting to see how the method used in this book works out. Now while the volumes are fresh from the press there can be no doubt that the inclusion of the statutory matter will be extremely helpful to the student and the instructor as well. How the various amendments, which seem inevitable, will be taken care of is not so clear, particularly when it is considered that the far-reaching amendments to the Judiciary Article of the New York Constitution, passed at the election of 1925, will become effective on January 1, 1927, pursuant to rather extensive legislation passed in the spring of 1926. In spite of all this, however, it is believed that the innovation will probably work out well.

There can be no question that this collection contains practically all of the recent cases of any importance, and that the task has been thoroughly and completely performed. The collection should be very useful to the practicing lawyer desirous of doing his work carefully and well. As a law school casebook, however, there seems to be lacking one essential characteristic. It would seem to have been possible to reduce the bulk of the work to at least one-third of its present size. There is much repetition; too many cases seem to be included merely because they have been recently decided; there is too little selection and condensation. The subject of depositions, to which no law school could afford to devote more than a very short time in view of the great field of fundamentally important matters to be considered, covers over one hundred pages, treating every detail of the practice with meticulous care. On the other hand, the important subject of appellate practice is not touched at all. But the author has anticipated any possible criticism on the lines above suggested by hinting in the preface that it could do no harm to include a great deal more material than could be used in any one curriculum, as the individual instructor may select such portion as it pleases him to use.

On the whole, these volumes are a substantial and well executed contribution to the subject of New York Practice, and they should be welcomed as such by the profession and the law schools in this State.

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A TREATISE ON THE LAW OF WILLS. By JOHN R. ROOD. Second Edition. Chicago: CALLAGHAN & Co. 1926. pp. ix, 1112.

The first edition of this book was favorably noted in this Review upon its appearance something over twenty years ago—(1905) 5 Columbia Law Rev. 481. It was a direct and forceful presentation, written with more style than is usual in law treatises, of what the author considered to be the general principles of the law of wills, together with a discussion of the law of gifts *causa mortis* and a more summary statement of the law of descent, distribution, and administration. The size of the book, as well as apparently the author's own convictions, led to a rather dogmatic form of statement. The result was a very serviceable desk manual for the lawyer and student, particularly where no lengthy collation and analysis of authorities was desired. Since the law of wills in general follows lines fairly well defined by English and American precedents, the subject lends itself, as well as any field of law may, to such treatment.

Little more need be said about the present edition since it is substantially the first edition without noteworthy change except for additions to the foot-

notes in the shape of citations of recent cases and references to the standard collection of cases and law review articles and notes. Where sections have been rewritten or added, the result is still the somewhat formal statement which goes little beyond the surface of the cases cited, as, for instance, the added Section 137(a) on Burden of Proof of Testamentary Capacity.<sup>1</sup> The summary form of attack is even more pronounced in the treatment of matters of probate administration. Thus the interesting and important question of probate jurisdiction, particularly the conflicts between states, is left practically untouched. The reviewer does not intend by these remarks to criticize the book adversely, but merely to point out the limitations in its plan and scope. It remains one of the best of the numerous direct and simple treatises on the law of wills. It will probably fill all normal requirements of persons who desire a manual on this subject and may at least point the way to the more extended research which the teacher or student must make on special topics.

The first edition ended with this graceful sentiment, "Let us be grateful to writers for what is left in the inkstand; when to leave off is an art only attained by the few." Possibly it is not without significance that in the present edition, larger by some 400 pages than the first, that sentiment is omitted. True, the increase is in part due to a different and very pleasing type page; it is, however, in large measure due to additions which make little change in substance. In the growing complexity of our law, probably we should be deeply grateful to persons like the author with a facility for direct and straightforward statement, who seem to point a way out of the case law morass.

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<sup>1</sup>Note the reliance here upon the overruled case of *Barber's Appeal* (1893) 63 Conn. 393.