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BOOK REVIEW

THE LAW OF WILLS IN PENNSYLVANIA

By A. J. White Hutton, Professor of Law, Dickinson School of Law.
Soney & Sage Co., Newark, N. J. 1933. Pp. X, 598.

Professor Hutton, in the preface of this book, states that its purpose is two-fold, "first, to furnish future classes with a text book on the subject, and second, to make the general principles readily available and in an acceptable manner, it is hoped, to the busy practitioner and others interested." The work is the result of the author's experience in the teaching and practice of the law for some thirty years. With such qualifications one would expect the avowed purpose and expressed hope to be fulfilled—that the benefits of tracing the historical developments of legal principles and of problem analysis, which denote the case method of teaching, would be combined with a statement of the legal precepts and definite rules, the objective of text writers and compilers of digests. And such is the author's method of presenting his materials.

The author's general approach to the law of wills probably can be best illustrated by a consideration of a typical chapter. Let us take Chapter XIV, Revocation of Wills. First the relevant provisions of the Wills Act of 1917, as annotated by the Commission which revised and codified the law of decedents' estates, showing the legislative history of the provisions, is set out. Then the various methods of revocation are segregated and each separately discussed. Revocation by subsequent will is first considered. A statement of the general rule is ventured and the reader is referred to a note in Annotated Cases for a more extended discussion. Then the leading Pennsylvania cases on the question are taken up. The opinions are freely quoted and, where necessary for a full understanding of the holding, the factual situation is briefly explained. A few

additional cases are then cited for further reference. The cases and quotations are carefully selected and a reading of them unfolds the development of and the reason in back of the rule, its application to specific situations, and its true scope and meaning. The same careful treatment is then made of revocation by codicil, acts in pais, circumstances, etc.

The advantages of this method are obvious. Too often a text book, or digest, merely contains extensive statements and restatements of rules and principles, accompanied by exhaustive citations of cases. A rule means little unless one knows the reason for it, the process of its development, and its scope, as shown by the process of inclusion and exclusion of specific fact situations. Hence to understand the rules you are put to the task of examining the numerous cases cited, many of which will be found of little aid and others not in point. The author avoids this by letting the cases themselves develop and unfold the principles of law. His thesis is that though legal rules are applied by deduction they are a result of the inductive process and should be so studied.

A possible criticism of the work is that it contains too little discussion or expression of opinion by the author—that it is too much of the “*tonorial and agglutinative*” type. This may be due to the modesty of the author. If so, it is regrettable, for his opinions are entitled to weight. Another likely reason is his evident intention to avoid the type of text book discussed. However he has been too restrictive in effecting this aim and a more liberal sprinkling of his opinions would have added to the value of the work. The book has no footnotes, an innovation in text writing, which some may criticise. However, this preserves continuity of reading; and the cases, texts, and annotations referred to in the text, though not exhaustive, are well selected and will be found adequate if a more comprehensive treatment of any point is desired.

The book is divided into eighteen chapters and a reading of the chapter headings discloses that there is a

comprehensive treatment of all the problems relating to the capacity of the testator, the execution, form and construction of wills, and the practice and procedure in Pennsylvania. There is also a well considered chapter on gifts *causa mortis*, which, because of the ambulatory nature of such gifts, seems properly included in a text on wills; and an introductory chapter entitled "Prolegomena". For the benefit of the practitioner a liberal number of forms are included in the appendix. The appendix also contains the original text of the early Wills Acts of 1705, and 1833 and the present act, as amended to date.

As to the mechanical features of the book, it contains a list of authorities, a table of cases, and a chronological list of the Acts of Assembly which are discussed, construed, or cited in the text. The index is full and carefully prepared, and, unlike many indices, does not defy the user to find the point he wants. There is also included, as appropriate to the bi-centennial year, the will of George Washington, which makes interesting and instructive reading.

The reviewer feels that this is a valuable addition to the text materials on Pennsylvania Law and predicts a gratifying reception of it by the members of the bar. It is being used by Professor Hutton in his class in Wills this year and the student reaction has been very favorable.

F. E. Reader.