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## Book Review

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# BOOK REVIEW

## RESTATEMENT OF THE LAW OF TRUSTS

By the American Law Institute, 1935, pp. VII, 807, VII, 1496.

One unfamiliar with the previous productions of the American Law Institute who reads the names listed on page one of this publication as members of the Committee on Trusts will feel assured that the aversion to codification, the contempt for blackletter law writing and the zeal for the independence of the state courts, which are supposed to prevail among the legal scholars of the United States will be reflected in the *magnus opus* of the Committee on Trusts. But such is not the case.

The Restatement is law writing of an anomalous character, but it is certainly blackletter law writing; it has many of the features of a code; and one of its avowed objectives is the production of uniformity of decision on common law questions by the State courts.

The importance of the Restatement has been largely discounted by the publication of Bogert on Trusts which is much easier to read; cites the authorities; and in many cases gives the reasons upon which the rules are based, and the criticisms to which they may properly be subjected.

But even though the Restatement is not indispensable, and perhaps is not worth the time and money which its production cost, it is nevertheless an important and useful publication. It is especially valuable to Pennsylvania lawyers because of the frequency with which it has been cited with approval by the Pennsylvania courts. Pennsylvania jurists will be gratified to learn that two of Pennsylvania's best known contributions to the law of trusts, the spendthrift trust, and the apportionment of extraordinary dividends, have been incorporated in this semi-official statement of the common law. The authors have doubtless been pleased by the fact that the Pennsylvania court, influenced largely by the Restatement, has adopted the doctrine of tentative trusts, which previously was not the law of Pennsylvania. The Restatement was also in part responsible for the decision in *Yost's Estate*, 316 Pa. 463 (1934), the effect of which, as shown in a note printed herein, has since been modified by statute and evaded by decision.

Most of the members of the Committee responsible for the Restatement of Trusts are law teachers. Consequently the Restatement is not of as great practical value as it would have been if practicing lawyers and judges had participated more actively in its preparation. The Restatement consists of blackletter statements of principles, followed by brief Comments of additional or supplementary or modifying principles, and in many cases with illustrations drawn from anony-

mous or hypothetical cases. All of the principles stated are not illustrated and a careful study has failed to disclose to the reviewer the test which the authors adopted in determining whether a principle should be illustrated. Certainly many of the illustrations are useless and even puerile.

It is easy to discover defects in the Restatement and it has been severely criticized in a number of brilliant reviews; but it will serve a useful and important service in the elucidation and classification of the common law and will influence greatly the future decisions of the courts.

W. H. Hitchler