



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 32 | Number 1

Article 8

12-1-1953

Book Review

North Carolina Law Review

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

North Carolina Law Review, *Book Review*, 32 N.C. L. REV. 147 (1953).

Available at: <http://scholarship.law.unc.edu/nclr/vol32/iss1/8>

This Book Review is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

BOOK REVIEW

Drafting Wills and Trust Agreements: Administrative Provisions.

By Gilbert T. Stephenson. Boston: Little, Brown & Co., 1952. Pp. 551. \$10.00.

This book is *sui generis*; there is nothing else just like it either in its approach to the problems of draftsmanship or in the material which it uses. A second volume, now in preparation, will deal with dispositive provisions in wills and trust agreements as this first one does with provisions in aid of administration.

The work, as the author makes clear, is not a treatise on wills and trusts nor on their administration. It is not a book on estate planning. Nor is it a text on the taxation of estates and trusts. Distinctly it is not a form book. Yet, except for its size (the volume runs to over 500 pages) it might be called a handbook of them all, for it is full of valuable suggestions on all phases of property administration which should be in mind when governing instruments are being drawn. It is primarily a work for lawyers in planning and drafting wills and trust instruments, although of value to all who counsel with others about the future management of their affairs.

The nature of the book can best be understood by knowing the circumstances which brought it into existence; and to do that one must know something about the author. Mr. Stephenson is a graduate of Wake Forest College and the Harvard Law School. After a number of years in practice he entered the field of trust administration and continued as an active trust officer until 1937. In that year he became Director of Trust Research for the Graduate School of Banking of the American Bankers Association, of which he had been a faculty member from its beginning. To find out how things were actually being done, Mr. Stephenson proceeded to gather a vast number of wills and trust agreements from all parts of the country. The best of these, some 750, he made the basis of a special study. The findings of this research and Mr. Stephenson's own comments were embodied in a series of lectures given over a period of 13 years at 47 law schools throughout the country; they became annual events at many universities. Mr. Stephenson has now reorganized and enlarged the material of these lectures and put it into book form.

The present volume deals with provisions which have been found of practical use in the administration of estates and trusts and presumably may be helpful in future instruments. They are concerned with powers

of executors and trustees in aid of administration, with directions and approvals of parties in interest, with the appointment of representatives and their successors, with investments, taxes, insurance, accounting, compensation, the management of business enterprises, distributions to beneficiaries, provisions for their protection, and the like. At the end the author includes a sample will, living trust agreement, a personal insurance trust agreement and a partner's insurance trust agreement, embodying the more important of these provisions under assumed states of fact.

The book, while full of suggested language, offers no forms as final. It does not attempt to beguile the practitioner into believing that he can accept the work of another, often under different circumstances, in lieu of close thinking on his own part; throughout it stresses the need for consideration and skill in the treatment of individual cases. Perhaps its greatest value is in pointing up problems which should be faced. Some of them will have no significance for the situation at hand; but many of them may, and yet would be overlooked were it not for reminders such as are here offered.

But this is far more than a checklist, for with each question raised there is a suggested treatment. Often it is a composite of the experience of many draftsmen. Frequently it is accompanied by comment from the author. It is as though one were playing chess with a master who would pause at every move to explain the reason for the course adopted.

Many administrative provisions frequently found in wills and trust agreements are surplusage, as Mr. Stephenson repeatedly points out. Certain powers and duties are inherent in the relationship of executor and trustee and will be given effect by the court without express grants and impositions in the creating instrument. It may be advisable nevertheless, the author believes, to incorporate some of them to give assurance to persons dealing with representatives and to avoid the necessity of applying to the court for confirmation. Good draftsmanship involves a nice balance between saying too much and saying too little. An instrument should not be burdened with a multitude of unnecessary provisions; but on the other hand intent should not fail through lack of sufficient language.

Mr. Stephenson has long been regarded as the dean of American trust men. This summation in his mature years of a lifetime of research is a notable contribution to the literature of estates and trusts.

LOUIS S. HEADLEY

Member, St. Paul Bar
St. Paul, Minnesota