

**GRATUITOUS TRANSFERS**  
**WILLS, INTESTATE SUCCESSION,**  
**TRUSTS, GIFTS, FUTURE**  
**INTERESTS, AND**  
**ESTATE AND GIFT TAXATION**

**CASES AND MATERIALS**

**Fifth Edition**

**Elias Clark**  
**Louis Lusky**  
**Arthur W. Murphy**  
**Mark L. Ascher**  
**Grayson M.P. McCouch**

---

*American Casebook Series®*

**THOMSON**  
  
**WEST**

**CASES AND MATERIALS ON**  
**GRATUITOUS**  
**TRANSFERS**  
**WILLS, INTESTATE SUCCESSION,**  
**TRUSTS, GIFTS, FUTURE INTERESTS**  
**AND ESTATE AND GIFT TAXATION**

**Fifth Edition**

By

**Elias Clark**

*Lafayette S. Foster Professor Emeritus of Law  
Yale University*

**Louis Lusk**

*Late Betts Professor of Law, Emeritus  
Columbia University*

**Arthur W. Murphy**

*Joseph Solomon Professor Emeritus in Wills, Trusts, and Estates  
Columbia University*

**Mark L. Ascher**

*Joseph D. Jamail Centennial Chair in Law  
University of Texas*

**Grayson M.P. McCouch**

*Professor of Law  
University of San Diego*

**AMERICAN CASEBOOK SERIES®**

**THOMSON**  
  
**WEST**

Thomson/West have created this publication to provide you with accurate and authoritative information concerning the subject matter covered. However, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. Thomson/West are not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

*American Casebook Series* and West Group are trademarks registered in the U.S. Patent and Trademark Office.

COPYRIGHT © 1967, 1977, 1985 WEST PUBLISHING CO.

© West, a Thomson business, 1999

© 2007 Thomson/West

610 Opperman Drive

P.O. Box 64526

St. Paul, MN 55164-0526

1-800-328-9352

Printed in the United States of America

ISBN: 978-0-314-16040-9



TEXT IS PRINTED ON 10% POST  
CONSUMER RECYCLED PAPER



## **West's Law School Advisory Board**

---

**JESSE H. CHOPER**

Professor of Law,  
University of California, Berkeley

**DAVID P. CURRIE**

Professor of Law, University of Chicago

**YALE KAMISAR**

Professor of Law, University of San Diego  
Professor of Law, University of Michigan

**MARY KAY KANE**

Professor of Law, Chancellor and Dean Emeritus,  
University of California,  
Hastings College of the Law

**LARRY D. KRAMER**

Dean and Professor of Law, Stanford Law School

**WAYNE R. LaFAVE**

Professor of Law, University of Illinois

**JONATHAN R. MACEY**

Professor of Law, Yale Law School

**ARTHUR R. MILLER**

Professor of Law, Harvard University

**GRANT S. NELSON**

Professor of Law,  
University of California, Los Angeles

**JAMES J. WHITE**

Professor of Law, University of Michigan





## Preface to the Fifth Edition

---

Every casebook is constructed primarily to meet the teaching needs of its editors, and this one is no exception. The book has two main objectives. It is designed, first, to equip the general practitioner for practice in the estates field—more specifically, for planning, drafting, and administration in estates of medium size which do not involve major tax problems. The second purpose is to provide a broad base of general information from which the prospective specialist may proceed to more detailed study.

The opening chapter asks the student to consider the role of wealth transmission in contemporary society and to appraise various theories concerning testamentary freedom and its limitations. The next six chapters (2 through 7) deal with the law of intestate succession; protection of the family; wills, including grounds for contest and formalities of execution and revocation; gifts; and trusts. The chapter on trusts covers methods of creation and termination, and considers special problems involving, *inter alia*, spendthrift, discretionary, self-settled, constructive, resulting, and charitable trusts. These chapters include a substantial amount of note and text material to expedite consideration of essential but relatively uncomplicated points.

The final three chapters (8 through 10) are intended to be introductory rather than definitive. The primary purpose is to introduce the student to fiduciary administration, future interests, and wealth transfer taxation, without precluding more detailed study of the subject matter in more advanced courses.

Chapter 8 on fiduciary administration explains the procedures for probating a will, appointing a fiduciary, and processing claims of the decedent's creditors. It also surveys several important aspects of fiduciary responsibility, with particular reference to management of trust funds. These materials touch on the significant doctrines but do not attempt to explore their application in all possible situations.

Chapter 9 on future interests opens with an introduction to classification and terminology, then proceeds directly to coverage of the Rule against Perpetuities, and concludes with a section on powers of appointment. Relatively little attention is given to problems of construction or to the historical development of future interests, which could easily form the subject matter of a full separate course. Instead, the focus here is on aspects of planning and drafting which a general practitioner is likely to encounter in the trusts and estates field. Substantial economy of time and space has been achieved by dealing with various topics such as class gifts in the context of the perpetuities materials rather than under separate headings.

Chapter 10 provides an overview of the federal wealth transfer taxes, which affect almost all substantial gratuitous transfers of property. Here,

as in the chapter on future interests, the materials have been selected with an eye to the needs of the generalist rather than the expert. Accordingly, the primary emphasis is on the structure of the estate and gift taxes and their relationship to each other and to the generation-skipping transfer tax.

The book has considerable flexibility as a teaching tool. It is possible, for example, to cover substantially the entire book in a single comprehensive course, or to cover only the first seven chapters in a basic survey course and leave the last three chapters for a more advanced course.

This book began as a set of mimeographed teaching materials prepared by Professor Gulliver for use in his courses on the law of wills and trusts at Yale in the 1930s. For the next three decades the materials were regularly used and revised first by Professor Gulliver and then by Professor Henry A. Fenn. In 1965 Professor Clark of the Yale faculty joined with his colleagues at Columbia, Professors Lusky and Murphy, to produce a book that could be used at both schools. They broadened the coverage of the existing materials and added the chapters on future interests and wealth transfer taxation. In 1997, Professors Clark, Lusky, and Murphy invited Professors Ascher and McCouch to collaborate on the Fourth Edition, and Professors Ascher and McCouch have assumed primary responsibility for the current edition, which reflects developments since the publication of the Fourth Edition in 1999. From its inception the book has evolved considerably, but the basic structure and many of the original editors' contributions remain essentially intact.

In the text and notes, we have used the words "testator," "executor," and "administrator" to include both males and females. In editing the cases and other materials, we have freely omitted footnotes and renumbered those that remain. Furthermore, we have conformed punctuation and citation form to standard usage, and have corrected obvious typographical errors.

We are grateful to the authors and publishers who have consented to our use of excerpts from their copyrighted works. In addition, we wish to express our gratitude to the many students who served as research and editorial assistants in the preparation of successive editions of this book, to colleagues from other schools for their helpful suggestions, and to support staff at our respective institutions for their invaluable assistance in preparing the manuscript for publication.

ELIAS CLARK  
ARTHUR W. MURPHY  
MARK L. ASCHER  
GRAYSON M.P. MCCOUCH

April 1, 2007

## Acknowledgments

---

The editors wish to acknowledge permission to reproduce from the following copyrighted material:

Alford, Collecting a Decedent's Assets without Ancillary Administration, 18 Sw. L.J. 329 (1964). Originally appearing in 18 *Southwestern Law Journal* 329 (1964). Reprinted with permission from the *SMU Law Review* and the Southern Methodist University Dedman School of Law.

American Law Institute, Restatement (Second) of Conflict of Laws; Restatement (Second) of Property (Donative Transfers); Restatement (Third) of Property (Wills and Other Donative Transfers); Restatement (Second) of Restitution; Restatement (Second) of Trusts; Restatement (Third) of Trusts. Reprinted with permission of the American Law Institute.

American Law of Property (A. James Casner ed.) (Little, Brown & Co., 1952 & Supp.). Reprinted with permission.

Bittker, *The Church and Spiegel Cases: Section 811(c) Gets a New Lease on Life*, 58 Yale L.J. 825 (1949). Reprinted by permission of The Yale Law Journal Company and Fred B. Rothman & Company from *The Yale Law Journal*, Vol. 58, pages 825-870.

Cartoon by Dedini. © The New Yorker Collection 1962 Eldon Dedini from cartoonbank.com. All rights reserved. Reprinted with permission.

Chart of Relationships and Table of Consanguinity from Section 7.82 of *California Decedent Estate Practice* (1986-1997) copyright by the Regents of the University of California. Reproduced with the permission of Continuing Education of the Bar—California.

Dukeminier, *Perpetuities Law in Action* (1962). Copyright © 1962, from PERPETUITIES LAW IN ACTION, by Jesse Dukeminier. Reprinted with permission of The University Press of Kentucky.

Dukeminier, *The Uniform Statutory Rule Against Perpetuities: Ninety Years in Limbo*, 34 UCLA L. Rev. 1023 (1987). Originally published in 34 UCLA L. Rev. 1023. Copyright 1987, The Regents of the University of California. All Rights Reserved. Reprinted with permission.

Friedman, *The Law of Succession in Social Perspective, in Death, Taxes and Family Property* 9 (Halbach ed.) (West Publishing Co. 1977). Reprinted with permission.



- Friedrich, The Economics of Inheritance, in 1 Social Meaning of Legal Concepts 27 (Cahn ed., 1948). Reprinted with permission of New York University School of Law.
- Gray, The Rule Against Perpetuities (4th ed.) (Little, Brown & Co. 1942). Reprinted with permission.
- Gulliver & Tilson, Classification of Gratuitous Transfers, 51 Yale L.J. 1 (1941). Reprinted by permission of The Yale Law Journal Company and Fred B. Rothman & Company from *The Yale Law Journal*, Vol. 51, pages 1-39.
- Halbach, An Introduction to Chapters 1-4, in Death, Taxes and Family Property 3 (Halbach ed.) (West Publishing Co. 1977). Reprinted with permission.
- Langbein, Excusing Harmless Errors in the Execution of Wills: A Report on Australia's Tranquil Revolution in Probate Law, 87 Colum. L. Rev. 1 (1987) This article originally appeared at 87 Colum. L. Rev. 1 (1987). Reprinted by permission.
- Langbein, Mandatory Rules in the Law of Trusts, 98 Nw. U. L. Rev. 1105 (2004). Reprinted by special permission of Northwestern University School of Law, *Northwestern University Law Review*.
- Langbein, The Nonprobate Revolution and the Future of the Law of Succession, 97 Harv. L. Rev. 1108 (1984). Reprinted with permission.
- Langbein, Questioning the Trust Law Duty of Loyalty: Sole Interest or Best Interest?, 114 Yale L.J. 929 (2005). Reprinted by permission of The Yale Law Journal Company and William S. Hein & Company from *The Yale Law Journal*, Vol. 114, pages 929-990.
- Langbein, Substantial Compliance With the Wills Act, 88 Harv. L. Rev. 489 (1975). Reprinted with permission.
- Langbein, The Twentieth-Century Revolution in Family Wealth Transmission, 86 Mich. L. Rev. 722 (1988). Originally published by the Michigan Law Review. Reprinted with permission.
- Langbein, The Uniform Prudent Investor Act and the Future of Trust Investing, 81 Iowa L. Rev. 641 (1996). Reprinted with permission.
- Langbein & Posner, Social Investing and the Law of Trusts, 79 Mich. L. Rev. 72 (1980). Originally published by the Michigan Law Review. Reprinted with permission.
- Langbein & Waggoner, Reformation of Wills on the Ground of Mistake: Change of Direction in American Law?, 130 U. Pa. L. Rev. 521 (1982). Reprinted by permission of University of Pennsylvania Law Review and William S. Hein & Company, Inc., from John H. Langbein & Lawrence W. Waggoner, *Reformation of Wills on the Ground of Mistake: Change of Direction in American Law?*, 130 U. Pa. L. Rev. 521 (1982).

- Leslie, Trusting Trustees: Fiduciary Duties and the Limits of Default Rules, 94 Geo. L.J. 67 (2005). Reprinted with permission of the publisher, Georgetown Law Journal © 2005.
- Lynn, The Modern Rule Against Perpetuities (Bobbs-Merrill Co. 1966). Reprinted from *The Modern Rule Against Perpetuities* with permission. Copyright 1966 Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved.
- National Conference of Commissioners on Uniform State Laws, Uniform Disclaimer of Property Interests Act; Uniform Health Care Decisions Act; Uniform Marital Property Act; Uniform Parentage Act; Uniform Principal and Income Act; Uniform Probate Code; Uniform Prudent Investor Act; Uniform Simultaneous Death Act; Uniform Statutory Rule Against Perpetuities; Uniform Testamentary Additions to Trusts Act; Uniform Transfers to Minors Act; Uniform Trust Code. Reprinted with permission.
- Niles, A Contemporary View of Liability for Breach of Trust, 114 Trusts & Estates 12, 82 (1975). Reprinted courtesy of Intertec Publishing Corp. © TRUSTS & ESTATES, 1975, Overland Park, KS 66212. All rights reserved.
- Scott, The Law of Trusts (Fratcher & Ascher eds., 4th ed.) (Little, Brown & Co. 1987–1991 & Supp.). Reprinted with permission.
- Simes, Public Policy and the Dead Hand (1955). Reprinted with permission.
- Simes & Smith, The Law of Future Interests (West Publishing Co. 1956). Reprinted with permission.
- Sussman, Cates & Smith, The Family and Inheritance (1970). Reprinted with permission.
- Wedgwood, The Economics of Inheritance (1929). Reprinted with permission.
- Wellman, Recent Developments in the Struggle for Probate Reform, 79 Mich. L. Rev. 501 (1981). Originally published by the Michigan Law Review. Reprinted with permission.

## Table of Abbreviations Used in Referring to Texts

---

*Am. L. Prop.*: American Law of Property (1952), written by various authors and edited by A.J. Casner.

*Atkinson*: Atkinson, The Law of Wills (2d ed. 1953).

*Gray*: Gray, The Rule Against Perpetuities (Gray ed.) (4th ed. 1942).

*Holds.*: Holdsworth, History of English Law (1922-38).

*Mait. Eq.*: Maitland, Equity (1909).

*Page*: Bowe & Parker, Page on the Law of Wills (rev. ed. 1960).

*P. & M.*: Pollock & Maitland, History of English Law (2d ed. 1923).

*Scott on Trusts*: Scott, The Law of Trusts (Fratcher & Ascher eds.) (4th ed. 1987-91 & Supp.).

*Scott and Ascher on Trusts*: Scott and Ascher on Trusts (5th ed. 2006 & Supp.).

*Simes & Smith*: Simes & Smith, Law of Future Interests (2d ed. 1956).

\*

# Table of Cases

The principal cases are in bold type. Cases cited or discussed in the text are roman type. References are to pages. Cases cited in principal cases and within other quoted materials are not included.

- Abdella, Matter of, 692  
 Abesy, In re Estate of, 129  
 Abrams v. Templeton, 818  
 Adams v. Boan, 59  
 Adcock v. Bishop, 449  
 Adolphson's Estate, Matter of, 85  
**Adoption of (see name of party)**  
 Aetna Life Ins. Co. v. Schilling, 454  
 Agrelius v. Mohesky, 428  
 Ahmed v. Ahmed, 121  
 Albert Anderson Life Ins. Trust, In re, 510  
 Albinger v. Harris, 450  
 Albrecht v. Brais, 428, 442  
 Albuquerque Nat. Bank v. Citizens Nat. Bank in Abilene, 635  
 Aldridge v. First & Merchants Nat. Bank of Richmond, 385  
 Alexander v. Estate of Alexander, 187  
 Allen v. Dalk, 303  
**Allen v. Dundas, 653, 654**  
 Allen, Matter of Estate of, 106  
 Allen, United States v., 902  
 Alvarez v. Coleman, 352, 580  
 American Nat. Bank & Trust Co. v. Auman, 624  
 Anderson, Estate of, 60  
 Andrews v. Troy Bank and Trust Co., 441  
 Andrews' Will, Matter of, 229  
 Andrus v. Allard, 27, 28  
 Antonopoulos, In re Estate of, 59  
 Antos v. Bocek, 449  
**Appeal of (see name of party)**  
**Application of (see name of party)**  
 Archer, Estate of, 359  
 Arends' Estate, Matter of, 355  
 Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 160  
 Arnheiter v. Arnheiter, 394  
 Aronow v. Silver, 450  
 Ashburner v. Macguire, 400  
 Askins v. Easterling, 585  
 Atchison, In re, 129  
 Attorney Grievance Com'n of Maryland v. Brooke, 228  
 Atwood v. Atwood, 713  
 Auen, Estate of, 228  
 Auric v. Continental Cas. Co., 285  
 Ausley, Matter of Estate of, 372  
 Austin, Estate of, 404  
 Ayers v. Fay, 584  
 Azcunce v. Estate of Azcunce, 188, 331  
 Babbitt v. Youpee, 28  
 Baby M, Matter of, 95  
 Bacardi v. White, 521  
 Bailey v. Kerns, 326, 327  
 Baird, Matter of Estate of, 129  
 Baizley v. Baizley, 580  
 Baker v. State, 60  
 Baker, In re, 509  
 Bakhaus' Estate, In re, 362  
 Balch v. Stone, 65  
 Baldwin v. Branch, 760  
 Baldwin, Estate of, 671  
 BankAmerica Pension Plan v. McMath, 454  
 Bankers Trust Co. v. Pearson, 773  
 Banko v. Malanecki, 456  
 Bank of New York, In re, 703  
 Barcelo v. Elliott, 388  
 Barham v. Jones, 438, 443  
**Barnes v. Marshall, 198, 205**  
 Barnett v. Barnett, 175  
**Barnette v. McNulty, 551, 557**  
 Barone v. Barone, 255  
 Batchelder v. Boyd, 93  
 Baumanis v. Praulin, 303  
**Bayley's Trust, In re, 564**  
 Beach, Estate of, 697  
 Beale's Estate, In re, 330, 365  
 Bearbower, Matter of Estate of, 271  
 Beatty v. Guggenheim Exploration Co., 473  
 Beck v. Downey, 120  
 Beck v. Givens, 440  
 Beck v. West Coast Life Ins. Co., 120  
 Beck, Matter of Estate of, 43  
 Becklund's Estate, In re, 365  
 Beddingfield v. Estill & Newman, 120  
 Belcher v. Conway, 741  
 Belfield v. Booth, 779  
 Bellis v. Bellis, 440



- Benjamin v. Woodring, 214  
 Benner's Estate, In re, 84  
 Bennett, Estate of, 919  
 Bennight's Estate, In re, 207  
 Berk's Estate, In re, 69  
 Berman v. Sandler, 397  
 Berndtson v. Heuberger, 290  
 Bersch v. VanKleeck, 382  
 Besch v. Schumacher, 760  
 Bessett, In re Estate of, 461  
 Best, Matter of Estate of, 88  
 Biakanja v. Irving, 285  
 Bienash v. Moller, 442  
 Bixby's Estate, In re, 737  
 Black v. Poole, 462  
 Black v. Washam, 84  
 Black, Estate of, 320  
 Blackmer v. Blackmer, 207  
 Blake, In re Estate of, 328  
 Blakely, In Estate of, 303  
 Blanchette v. Blanchette, 457  
 Blankenship, In re Estate of, 395  
 Blettell, Estate of v. Snider, 428  
 Blevins v. Moran, 418  
 Bligh, In re Estate of, 457  
 Blomdahl's Will, In re, 403  
 Bloom v. Selfon, 382  
 Blunt v. Lentz, 167  
 B. M. C. Durfee Trust Co. v. Borden, 69  
 B. M. C. Durfee Trust Co. v. Taylor, 789  
 Board of Educ. of Montgomery County v. Browning, 85  
 Board of Trustees of Employees' Retirement System of City of Baltimore v. Mayor and City Council of Baltimore City, 699  
 Board of Trustees of University of Alabama v. Calhoun, 362  
 Board of Trustees of University of North Carolina at Chapel Hill v. Unknown Heirs of Prince, 623  
 Bob Jones University v. United States, 619  
 Boggs v. Boggs, 160, 175  
 Bogner's Estate, In re, 365  
**Bolinger, Matter of Estate of, 490**  
 Bolles v. Toledo Trust Co., 469  
 Bolton, Matter of Estate of, 440  
 Bonardi, In re Estate of, 567  
 Bond, Estate of v. Commissioner, 914  
 Boney v. Boney, 215  
 Bongaards v. Millen, 134, 148  
**Bonjean's Estate, Matter of, 216**  
 Booth v. Baptist Church of Christ, 333  
 Boranian v. Clark, 210  
 Bosch's Estate, Commissioner v., 728, 919  
 Bostwick v. Hurstel, 407  
 Bovey, In re Estate of, 87  
 Bowden v. Teague, 509  
 Bowers, In re Estate of, 372  
 Bowling v. Deaton, 382  
 Boyd, Succession of, 322  
 Boykin, Ex parte, 521  
 Braa, In re Estate of, 93  
 Brandon's Estate, Matter of, 231  
 Branigan, Matter of Estate of, 397  
**Bray's Estate, In re, 169**  
 Brazil v. Silva, 255  
 Brewer v. Brewer, 648  
 Bridges v. Taylor, 415  
 Briggs' Estate, In re, 321  
 Brill v. Ulrey, 644  
 Brophy v. Haeberle, 441  
 Brown v. Crawford, 189  
 Brown v. Metz, 439  
 Brown v. United States, 903  
 Brown, In re Estate of, 528 A.2d 752, p. 567  
 Brown's Estate, 119 A.2d 513, p. 510  
 Brown's Estate, In re, 306 N.E.2d 781, p. 838  
 Brown's Estate, In re, 106 N.W.2d 535, p. 190  
 Bruner, Estate of, 698  
 Brunet's Estate, In re, 416  
 Bryan v. Century Nat. Bank, 209  
 Bryant v. Bryant, 442  
 Burch v. Griffe, 154  
 Burcham, Matter of Estate of, 355  
 Burk, Matter of Estate of, 271  
 Burke's Estate, In re, 244 P. 340, p. 671  
 Burke's Estate, Matter of, 613 P.2d 481, p. 276  
 Burlington County Trust Co. v. Di Castelcalca, 825  
 Burnet v. Guggenheim, 863, 864  
 Burnet v. Northern Trust Co, 889  
 Burnett v. First Commercial Trust Co., 395  
**Burns v. Adamson, 271, 274**  
**Burns' Estate, In re, 412, 414, 415**  
 Burruss, Matter of Estate of, 415  
 Burton v. Irwin, 497  
 Bush's Estate, In re, 659  
 Butler v. Shelton, 592  
**Butler v. Sherwood, 429, 458**  
 Button's Estate, In re, 230  
 Bye v. Mattingly, 209  
 Byerly v. Tolbert, 95  
 Byrum, United States v., 894  
 Cable's Will, In re, 369  
 Cadell v. Palmer, 764  
 Cahoon's Estates, Matter of, 654  
 Calden, Estate of, 416  
 Califano v. Goldfarb, 138  
 California v. Texas, 457 U.S. 164, p. 632  
 California v. Texas, 437 U.S. 601, p. 632  
 Calloway, Matter of Estate of, 93  
 Camin's Estate, In re, 207  
 Campbell v. French, 374  
 Campbell, In re Estate of, 939 S.W.2d 558, p. 441  
 Campbell, Matter of Estate of, 655 N.Y.S.2d 913, p. 388  
**Campbell's Estate, In re, 82 P.2d 22, p. 776**  
 Campbell's Estate, Matter of, 641 P.2d 610, p. 62  
 Cancik, In re Estate of, 190  
 Capuzzi, In re Estate of, 439  
 Carey v. Jackson, 440

- Carl J. Herzog Foundation, Inc. v. University of Bridgeport, 598  
 Carlson v. Bankers Trust Co., 439  
 Carmichael v. Heggie, 838  
 Carother's Estate, 232  
 Carpenter, Estate of v. Commissioner, 915  
 Carpenter's Estate, In re, 107  
**Carroll's Will, In re, 840**  
 Carson's Estate, In re, 344 P.2d 612, p. 322  
 Carson's Estate, In re, 194 P. 5, p. 254  
 Carter v. Berry, 807  
 Carter v. First United Methodist Church of Albany, 372, 373  
 Carter, Matter of Will of, 301  
 Casper v. McDowell, 230  
 Cate-Schweyen v. Cate, 509  
 Cattlin v. Brown, 814  
 Cavill's Estate, In re, 197  
 Cazallis v. Ingraham, 504  
 Cecala's Estate, In re, 654  
 Certain Scholarship Funds, In re, 617  
 Chalmers v. Chalmers, 441  
 Chapman v. Chapman, 404  
 Chapman v. Citizens and Southern Nat. Bank of South Carolina, 351  
 Charleston Library Soc. v. Citizens & Southern Nat. Bank, 373  
 Chartier, In re Estate of, 654  
 Chase v. Pevear, 740  
 Chase, Matter of, 241  
 Chase Manhattan Bank, In re, 696, 713  
 Chase Nat. Bank of New York, Commissioner v., 885  
 Chayka's Estate, In re, 354  
 Chelsea Nat. Bank v. Our Lady Star of the Sea, 593  
 Chenoweth, In re, 129  
 Chichester v. Wilmington Trust Co., 88  
 Chichester Diocesan Fund and Board of Finance Inc. v. Simpson, 589  
 Children's Aid Soc. of New York v. Loveridge, 220  
 Childs v. National Bank of Austin, 688  
 Choate, Matter of Application of, 397  
 Christensen v. Britton, 230  
 Christensen, In re Estate of v. Christensen, 192  
 Christian, Estate of, 320  
 Chusid's Estate, In re, 536  
 Cianciulli v. Smyth, 505  
 City Bank Farmers Trust Co., Helvering v., 889  
 City Bank Farmers' Trust Co. v. United States, 909  
**City of (see name of city)**  
 Clack, Estate of v. Commissioner, 916  
 Claflin v. Claflin, 567  
 Clark v. Campbell, 589  
**Clark v. Greenhalge, 331, 334, 339**  
 Clark v. Jeter, 92  
 Clark, In re, 80 N.Y.S.2d 1, p. 833  
 Clark, In re Estate of, 288 N.Y.S.2d 993, p. 630  
 Clarkson's Estate, In re, 155  
 Clement v. Larkey, 692  
 Clobberie's Case, 796  
**Clymer v. Mayo, 342, 374, 382**  
 Cochrane v. Moore, 431  
**Cohen v. Commissioner of Div. of Medical Assistance, 537, 546**  
 Cohen, Matter of Estate of, 353  
 Cohen, Matter of Will of, 328  
 Coleman v. Coleman, 557  
 Collamore v. Learned, 86  
 Collier, In re Will of, 453  
 Collins v. Scott, 644  
 Collins, Estate of, 509  
 Collis v. Walker, 779  
 Colombo v. Stevenson, 418  
 Commercial Trust Co. of N. J. v. Barnard, 735  
**Commissioner v. \_\_\_\_\_ (see opposing party)**  
 Committee on Professional Ethics and Conduct of Iowa State Bar Ass'n v. Randall, 228  
 Congdon's Estate, Matter of, 118  
 Connecticut General Life Ins. Co. v. First Nat. Bank of Minneapolis, 510  
 Conner v. Donahoo, 284  
 Connolly's Will, In re, 593  
 Conradi v. Perkins, 424  
 Conservatorship of Spindle, Matter of, 209  
 Conway v. Conway, 308  
 Cook v. Cook, 353  
 Cook v. Estate of Seeman, 190  
 Cook v. Grierson, 120  
 Cook v. Horn, 796  
 Cook v. Walsh, 351  
 Cook v. White, 332  
 Coomes v. Finegan, 124  
 Cooper, Estate of, 237 P.2d 699, p. 404  
 Cooper, Matter of Estate of, 913 P.2d 393, pp. 735, 736, 742  
 Corning Bank v. Rice, 453  
 Cory v. White, 632  
 Cosman, Matter of Estate of, 353  
 Cottingham v. McKee, 313  
 Courtourier, In re, 567  
 Cox, Appeal of, 289  
 Craig, Matter of Estate of, 625  
 Cramer v. Hartford-Connecticut Trust Co., 469  
 Crampton v. Osborn, 363  
 Cravens v. Cravens, 122  
 Creekmore v. Creekmore, 440  
 Cregar's Estate, In re, 84  
 Crego v. Monfiletto, 84  
 Creviston v. Aspen Products, Inc., 461  
 Cristofani, Estate of v. Commissioner, 877  
 Cristo's Estate, 442  
 Croft v. Alder, 225  
 Cromwell, Matter of Will of, 247  
 Crosby v. Alton Ochsner Medical Foundation, 373  
 Crosby v. Corley, 106  
 Crosby v. Luehrs, 405, 442  
 Cross, In re Estate of, 155  
 Crowder v. Crowder, 427  
 Crummey v. Commissioner, 877

- Crumpton v. Mitchell, 88  
 Cruzan by Cruzan v. Director, Missouri Dept. of Health, 311  
 Cuevas v. Kelly, 630  
 Culliton v. Beth Israel Deaconess Medical Center, 95  
 Curry v. McCanless, 631  
 Curry v. Sutherland, 230  
 Curtis v. Anderson, 450  
 Cyr v. Cote, 256  
  
 Dahlgren v. First Nat. Bank of Nevada, 328  
 Dahood v. Frankovich, 75, 76  
 Dalia v. Lawrence, 147  
 D'Ambrosio, Estate of v. Commissioner, 902  
 Damon, In re Estate of, 497, 813  
 Danford's Estate, In re, 359  
 Daniel v. Brown, 847  
 Daniels, Matter of Estate of, 341  
 Darlington, In re Estate of, 428  
 Davies v. Otty, 579  
 Davis v. Gillespie, 441  
**Davis v. KB & T Co., 149, 153**  
 Davis v. Neilson, 88  
 Davison v. Duke University, 727  
 Davison v. Feuerherd, 256  
 Dean v. Garcia, 366  
 Dejmal's Estate, Matter of, 290  
 Del. ex rel. Gebelein, State of v. Belin, 735  
 DeLong v. Scott, 644  
 Demaris' Estate, In re, 284  
**Dennis v. Rhode Island Hosp. Trust Nat. Bank, 728**  
 Department of Social Services v. Saunders, 546  
 Desrosiers v. Germain, 456  
 DeThorne, Matter of Estate of, 275  
 Dewire v. Haveles, 789  
 DeWitt v. Duce, 256  
 DeWitt, In re Estate of, 454  
 Dickman v. Commissioner, 862, 863  
 Dickson, In re Estate of, 363  
 Didier v. American Cas. Co. of Reading, Pa., 671  
 Diehl v. United States, 635  
 Diep v. Rivas, 120  
 Dill v. Southern Farm Bureau Life Ins. Co., 119  
 Dillingham, Estate of v. Commissioner, 866  
 Dittus, Matter of Estate of, 428  
 Dixon v. Webster, 215  
 Dodson v. Walton, 365  
 Dokken, In re Estate of, 206  
 Doksansky v. Norwest Bank Nebraska, N.A., 536  
**Donnelly's Estates, In re, 78, 83**  
 Donough v. Garland, 124  
 Dorfman v. Allen, 286  
 Dorrance's Estate, 163 A. 303, p. 631  
 Dorrance's Estate, In re, 170 A. 601, p. 631  
 Dorsey v. Dorsey, 208  
 Doughty v. Morris, 256  
 Dowling v. Rowan, 167  
 Downing, Estate of, 660  
 Draper's Estate v. Commissioner, 120  
  
 Dreher v. Dreher, 147  
 Drye v. United States, 129  
 Duhme v. Duhme, 351  
 Duke of Norfolk's Case, 764  
 Dulles, Estate of, 94  
 Dunaway v. McEachern, 68  
 Duncan v. Duncan, 354  
 Duvall v. McGee, 520  
  
 Eastman, In re Estate of, 371  
 Eaton v. Brown, 328  
 Eckart's Estate, Matter of, 190  
**Eckland v. Jankowski, 644, 654**  
 Edgerly v. Barker, 807, 816  
 Edmundson v. Estate of Fountain, 277  
 Edwards' Estate, Matter of, 84  
 E.F. Hutton & Co., Inc. v. Wallace, 453  
 Egelhoff v. Egelhoff, 383, 384  
 Eisenberg's Estate, Matter of, 19  
 Eliassen's Estate, Matter of, 119  
 Ellerson v. Westcott, 109  
 Elliott v. Hiddleston, 87  
 Elliott's Estate, In re, 654  
 Emard v. Hughes Aircraft Co., 175  
 Emery, In re, 657  
 Emmert v. Old Nat. Bank of Martinsburg, 678  
 Engle v. Siegel, 394  
**Englund v. First Nat. Bank of Birmingham, 749**  
 Erickson v. Erickson, 716 A.2d 92, pp. 261, 398  
 Erickson v. Erickson, 266 N.W. 161, p. 521  
 Erickson, Matter of Estate of, 321  
 Erstein's Estate, In re, 355  
 Espinosa v. Sparber, Shevin, Shapo, Rosen and Heilbronner, 188  
 Essen v. Gilmore, 129  
**Estate of (see name of party)**  
 Estates of Covert, In re, 120  
 Estates of Perry, In re, 63  
 Estes, Matter of Estate of, 130  
 Etgen v. Corboy, 364  
 Evangelical Lutheran Charities Soc. of Charleston v. South Carolina Nat. Bank, 591  
**Evans v. Abney, 585, 599, 624**  
 Evans v. May, 230  
 Evjen, Matter of Estate of, 93  
 Exchange Nat. Bank of Atchison v. Betts' Estate, 671  
**Ex parte (see name of party)**  
 Eyerman v. Mercantile Trust Co., N.A., 42  
  
 Fahringer v. Strine's Estate, 353  
 Fain v. Hall, 657  
**Fairchild v. Rasdall, 576, 579**  
 Faith Lutheran Retirement Home v. Veis, 443  
**Farkas v. Williams, 462**  
 Farmers' Loan & Trust Co. v. Mortimer, 838  
**Farmers' Loan & Trust Co. v. Winthrop, 488, 505, 509**  
 Farnon v. Cole, 671

- Farris, Matter of Estate of, 415  
 Farr's Will, In re, 367  
 Fay's Estate, In re, 289  
 Federal Trade Commission v. Affordable Media, 546  
 Fender v. Fender, 442  
 Ferree, In re Will of, 321  
 Ferrell-French v. Ferrell, 846  
 Ferrill, Matter of, 230  
 Fidelity Title & Trust Co. v. Clyde, 592  
 Fienga's Estate, In re, 130  
 Fiew v. Qualtrough, 355  
 Finkelstein v. Finkelstein, 692  
 Finley v. Finley, 148  
 First Alabama Bank of Huntsville, N.A. v. Spragins, 713  
 First Nat. Bank and Trust Co. of Racine, State ex rel. v. Skow, 656  
 First Nat. Bank In Fairmont v. Phillips, 85  
 First Nat. Bank of Bar Harbor v. Anthony, 760  
 First Nat. Bank of Beaumont v. Howard, 679  
 First Nat. Bank of Birmingham v. Brown, 648  
 First Nat. Bank of Birmingham v. Klein, 333  
 First Nat. Bank of Chicago v. Elliott, 625  
 First Nat. Bank of Dubuque v. Mackey, 87  
 First Nat. Bank of East Liverpool v. Collar, 83  
 First Nat. Bank of Kansas City v. Danforth, 618  
 First Nat. Bank of Minot v. Bloom, 429  
 Fischer v. Johnson, 327  
 Fister v. Allstate Life Ins. Co., 119  
 Fitzpatrick v. Mercantile-Safe Deposit & Trust Co., 796  
 Flagg's Estate, In re, 692  
 Flaherty v. Flaherty, 521  
 Flaherty, Matter of Estate of, 214  
 Flanigan v. Munson, 585  
 Flannery v. McNamara, 398  
 Fleming, In re Estate of, 786 So.2d 660, p. 662  
 Fleming, In re Estate of, 21 P.3d 281, pp. 83, 93  
 Flider's Estate, In re, 309  
 Flynn's Will, In re, 290  
 Ford v. Ford, 119  
 Ford, In re Estate of, 82 P.3d 747, p. 85  
 Ford, Matter of Estate of, 552 So.2d 1065, p. 93  
 Ford's Estate, In re, 120 N.W.2d 647, p. 253  
 Fortney's Estate, Matter of, 87  
 Fosler, In re Estate of, 68  
 Foss' Will, In re, 656  
 Foster v. Reiss, 450  
 Foster, Estate of v. Commissioner, 915  
 Foster's Estate, In re, 807  
 Fox v. Faulkner, 497  
 Foxley, In re Estate of, 359  
 Fox' Will, In re, 364  
 Franciscan Sisters Health Care Corp. v. Dean, 228  
 Francis' Will, In re, 366  
 Franklin v. Anna Nat. Bank of Anna, 456  
 Free v. Bland, 174  
 French, Estate of, 197  
 Frick v. Pennsylvania, 631  
 Friedman, In re, 301  
 Fritz, Matter of Estate of, 354  
 Frolich's Estate, In re, 409  
**Frost Nat. Bank of San Antonio v. Newton, 557, 563**  
 Fuisz v. Fuisz, 424  
 Funk, Matter of Estate of, 362  
 Furia, Estate of, 85  
 Gabel v. Manetto, 557  
 Gaff v. Cornwallis, 333  
 Gagliardi, Estate of v. Commissioner, 866  
 Gaite's Will Trusts, In re, 774  
 Gallimore v. Washington, 120  
 Ganier's Estate v. Ganier's Estate, 192  
 Gardenhire v. Superior Court, 557  
 Gardiner, In re Estate of, 42 P.3d 120, p. 61  
 Gardiner's Estate, In re, 425 P.2d 427, p. 754  
 Gardner v. Balboni, 301, 308  
 Gardner, Estate of, 186  
 Garner v. Phillips, 109  
**Garrett v. Read, 345, 353, 354**  
 Garrett's Estate, In re, 74  
 Gaspar, Estate of v. Vogt, Brown & Merry, 155  
 Gaynor v. Payne, 756  
 Geduldig v. Posner, 254, 261  
 Genecin, Estate of v. Genecin, 440  
 Gerber, Matter of, 623  
 Giacomini's Estate, Matter of, 289  
 Gibboney v. Wachovia Bank, N.A., 382  
 Gibbs' Estate, 394  
 Gifford v. Dyer, 260, 373  
**Gilbert v. Gilbert, 356**  
 Gillett-Netting v. Barnhart, 104  
 Girard's Estate, In re, 618  
 Girard Trust Co. v. Schmitz, 41  
 Givens v. Third Nat. Bank in Nashville, 727  
 Glenn v. Mann, 283  
 Godley v. Valley View State Bank, 556  
**Goff v. Goff, 180**  
 Gokey, Estate of v. Commissioner, 893  
 Golas, In re Estate of, 454  
 Golden v. York, 75  
 Goldfarb v. Virginia State Bar, 658, 659  
 Goldman v. Rubin, 692  
 Gonzalez, In re Estate of, 320  
 Goodridge v. Department of Public Health, 60  
 Gordon v. Barr, 447  
 Gordon v. Gordon, 619  
 Gordon v. Portland Trust Bank, 453, 510  
 Govin v. De Miranda, 488  
**Grace's Estate, United States v., 894**  
 Gradov v. United States, 902  
 Graham, In re Estate of, 690 N.W.2d 66, p. 352  
 Graham's Estate, In re, 533 P.2d 1318, p. 405



- Grassman's Estate, In re, 167  
 Grau v. Dooley, 441  
 Greenberg's Estate, In re, 657  
 Greene v. Fitzpatrick, 87  
 Greenwald, Matter of Estate of, 367  
 Gregory v. Estate of Gregory, 355  
 Griffin's Will, Matter of, 69  
 Grobman's Estate, Matter of, 327  
 Grose v. Holland, 120  
**Gruen v. Gruen, 432, 461**  
 Guardian Life Ins. Co. of America v. Finch, 384  
 Guidry v. Sheet Metal Workers Nat. Pension Fund, 175  
 Gulbankian, State v., 247, 248  
 Gurlitz, In re, 509  
 Gurnett v. Mutual Life Ins. Co. of New York, 510  
 Gustafson v. Svenson, 387  
 Guy v. Guy, 580  
 Guy v. Liederbach, 285  
 Hackett's Estate, Matter of, 659  
 Hafner, Estate of, 60  
 Hagen v. Hickenbottom, 255  
 Haigh v. Kaye, 579  
 Hale v. Groce, 388  
 Haley v. Regions Bank, 87  
 Hall v. McBride, 140  
 Hall v. Mutual Life Ins. Co. of N.Y., 453  
 Hall v. Schoenwetter, 687  
 Hall v. Vallandingham, 83  
 Hall, In re Estate of, 303  
 Hallock, Helvering v., 870, 899, 900  
 Hall's Will, In re, 207  
 Halpern, Matter of, 154  
 Halpern's Estate, In re, 154  
 Hamerstrom v. Commerce Bank of Kansas City, N.A., 567  
 Hamill's Estate, In re, 735  
 Hamilton v. Hamilton, 155  
 Hamilton Nat. Bank of Chattanooga v. United States, 909  
 Hamilton's Estate, In re, 189  
 Hamlin v. Merlino, 174  
 Hamm's Estate, Matter of, 229  
 Handley v. Schweiker, 92  
 Hanke v. Hanke, 147  
 Hansel v. Head, 366  
 Harbaugh's Estate, Matter of, 574  
 Hardy v. Robinson, 509  
 Hargreaves, In re, 764  
 Hargrove v. Rich, 846  
 Harmon's Will, In re, 592  
 Harper v. Harper, 255  
 Harper v. Prudential Ins. Co. of America, 118  
 Harries v. Church Commissioners for England, 699  
 Harris v. Neely, 429  
**Harrison v. Bird, 360, 362, 363**  
 Harrison, Matter of Estate of, 290  
 Harris Testamentary Trust, In re, 727  
 Hartz v. Hartz, 167  
 Harvard College v. Amory, 693, 694, 695  
 Hastings' Estate, In re, 209  
 Hatch v. Atkinson, 439  
 Hatch v. Riggs Nat. Bank, 284 F.Supp. 396, p. 574  
**Hatch v. Riggs Nat. Bank, 361 F.2d 559, pp. 568, 574, 575**  
 Hatheway v. Smith, 333  
 Haugk's Estate, In re, 362  
 Haurin's Estate, Matter of, 366  
**Hausen v. Dahlquist, 642**  
 Hawkins v. Union Trust Co., 440  
**Haynes v. First Nat. State Bank of New Jersey, 232, 249**  
 Hayward v. Plant, 659  
 Hazelwood's Estate, In re, 322  
 Hebrew University Ass'n v. Nye, 439  
 Hecker v. Stark County Social Service Bd., 546  
 Hegel, Estate of, 405  
 Heibult, In re Estate of, 368  
 Heiman v. Parrish, 451  
 Helmholtz, Helvering v., 889  
**Helvering v. ——— (see opposing party)**  
 Henne's Estate, In re, 656  
 Herbach, In re Estate of, 192  
 Herceg, In re Estate of, 398  
 Hering, Estate of, 366, 368  
 Hermitage Methodist Homes of Virginia, Inc. v. Dominion Trust Co., 624  
 Hermon, Estate of, 382  
 Herron v. Underwood, 428  
 Herron's Estate, In re, 510  
 Heuer v. Heuer, 421  
 Hewitt v. Hewitt, 60  
 Heyn, In re Estate of, 440  
 Hicks, Estate of, 93  
 Hieber v. Uptown Nat. Bank of Chicago, 440  
 Hill v. Martin, 631  
 Hillowitz' Estate, In re, 453  
 Hill's Estate, In re, 84 N.W.2d 457, p. 284  
 Hill's Estate, In re, 256 P.2d 735, p. 208  
 Hilton's Estate, Matter of, 186  
 Hinders v. Hinders, 384  
 Hines, In re Estate of, 691  
 Hirschi, Estate of, 186  
 Hitchens v. Safe Deposit & Trust Co. of Baltimore, 521  
 Hobert, In re, 760  
**Hodel v. Irving, 21, 27, 28**  
 Hoesly v. State, Dept. of Social Services, 130  
 Hofing v. Willis, 416  
 Holcomb, In re Estate of, 247  
 Holland v. Holland, 247  
 Holliday v. McMullen, 118  
 Holmes v. John Hancock Mut. Life Ins. Co., 797  
 Holt v. Holt, 585  
 Holt's Estate, Matter of, 83  
 Home For Incurables of Baltimore City v. University of Maryland Medical System Corp., 42  
**Honigman's Will, In re, 210, 214**