ARIZONA
LAW REVIEW

VOLUME 1 FALL 1959 NUMBER 2

Symposium on Trust Planning

Foreword

The amazing population and industrial growth of Arizona within the past fifteen years has brought into focus those problems which inevitably arise in a complex urban society. One set of such problems has to do with property—the inheritance of property, the establishment of trusts, and the nature of estate and gift taxes. Various members of the State Bar of Arizona have for some time felt that a re-examination of the law of Wills, Probate, Trust, and Taxation was highly desirable. In fact, the Real Property, Probate, and Trust Law Section of the State Bar has only recently appointed a subcommittee to study the effect of our Perpetuities statutes upon pension and profit sharing trusts.

In recognition of this interest the College of Law and the Continuing Legal Education Committee of the State Bar proposed a one-day Institute upon the subject of Estate and Trust Planning. In laying plans for the Institute the Continuing Legal Education Committee of the Pima County Bar, an informal group of representative members of the Maricopa County Bar, as well as representatives of the trust companies, were all very helpful. Agreement was reached that there should be three main addresses in which would be discussed (1) the drafting of trusts (inter vivos and testamentary) and the problems therein confronting Arizona lawyers; (2) the nature of the Rule Against Perpetuities in Arizona and any recommendations that the speaker might have in regard to suggested legislative changes; and (3) the problems confronting Arizona lawyers in planning an estate which involves community property life insurance.

Each of the three main topics was to be presented by a nationally recognized authority in the field. In addition to these speakers it was decided to ask certain Arizona lawyers to discuss and comment on the analysis made by the three main speakers. A further decision was made to hold the Institute first in Phoenix, and to repeat it the next day at Tucson.

Professor William J. Bowe of the University of Colorado delivered the first address, on draftsmanship problems of testamentary and inter vivos trusts. Mr. Bowe is both a teacher and practitioner, and is in great demand as a lecturer throughout the United States. Only recently he published his treatise, *Estate Planning and Taxation*, which has been very well-received.

Professor Richard R. Powell of Columbia University, in the second address, presented his analysis of the Perpetuities statutes of Arizona. Since Professor Powell had been Reporter for the American Law Institute's *Restatement of Property* and is also a practitioner, he was well qualified for undertaking an analysis of this portion of our Arizona property law. He presented his subject with clarity and thoroughness, and made thoughtful recommendations whereby our law might be improved.

Professor Samuel D. Thurman of Stanford University spoke upon the difficult subject of community property life insurance and federal taxation. This illuminating address was likewise focused upon the problems of Arizona lawyers in accordance with the purpose of the Institute. Some of our lawyers had read Professor Thurman's scholarly analysis of community property life insurance law in the March 1957 issue of the *Stanford Law Review*, and so looked forward with more than usual anticipation to his appearance on our program.

Governor Paul Fannin addressed the noon luncheon at the Phoenix meeting. His subject, The Potential Industrial Development in Arizona, was forcefully presented and emphasized for those present the timeliness of the Institute program. The Honorable Lewis W. Douglas prepared an address for the Tucson luncheon on the subject, The Future and Potentialities of Southern Arizona. When circumstances prevented Mr. Douglas from attending the luncheon, his prepared speech was presented by Mr. Robert Howe of the Southern Arizona Bank and Trust Company. The Committee was particularly pleased that these two distinguished Arizonans, Governor Fannin and Mr. Douglas, consented to make their fine contributions to the Institute program.

The interest in the Institute was such that we received numerous demands for publication of the proceedings in our Law Review. Since a tape recording had been made of most of the speeches and comments, the work of preparing the proceedings for publication was begun. With the exception of Professor Powell's address, the speeches and comments appearing herein were taken from the recorder and edited before being sent to the respective speaker for further editing. Unfortunately, because of certain mechanical difficulties it was not possible to get some of the speakers' comments.

In editing the speeches an effort was made to preserve as far as possible the conversational nature of the address. It was believed that such a presentation in the Law Review would better preserve the clarity of the speaker's thought and contribute to the reader's ease of understanding the material. No effort was made to make a complete interpolation of footnotes, although footnotes were occasionally inserted.

Many individuals and organizations assisted in planning the Institute and in providing financial aid both for the Institute program and for the publication of the proceedings. Thanks are particularly due to the Maricopa County Bar Association, the Pima County Bar Association, the State Bar of Arizona, and the principal Trust Departments in Arizona. The Continuing Legal Education Committee of the State Bar and Mr. Donald Phillips, Secretary of the State Bar, greatly assisted in preparing and planning the Institute program.

We wish also specially to thank Governor Fannin, Mr. Douglas, and the attorneys whose appearance on the program materially added to the success of the Institute.

James J. Lenoir, Chairman
Institute on Trust Planning