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The Editor

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Symposium: The Winds of Change in Wills, Trusts, and Estate Planning Law

INTRODUCTION

Statutory schemes of intestate succession and required will execution formalities are necessary to protect a decedent's express or implied testamentary intent. These procedural rules have created the impression that the law of wills, trusts, and planning neither can nor will change. That this body of law is intractable is a misconception: wills and trusts law is capable of responding to the winds of change that are sweeping the field.

The articles in this Symposium illustrate three different aspects of change. The essay by Professor Fellows provides an analysis and criticism of one very important change, the trend toward the use of a legislative rather than judicial forum to create new law. In the second article, Professor Rein discusses adoption and proposes a mechanism by which the laws of succession can be modernized better to reflect the social phenomenon of adoption, whether of children or adults, legal or equitable. Professor Miller and Mr. Rainey in their article examine the premises that have prompted the increasing use of a revocable trust rather than a will as the principal dispositive instrument in an estate plan to determine if the federal tax consequences are as benign as many estate planners believe.

These articles begin to give shape to the winds of change in wills, trusts, and estate planning law. Whether cautioning about the consequences of change or arguing for more change, these articles provide a useful departure point for thinking about the future of this area of law.

