

It is necessary to explain that the figures for the years 1917 and 1918 were unduly inflated owing to the increased numbers of wills which were made by persons who were proceeding overseas to undertake war service.

By reason of the changes which the lapse of time brings about many testators find it necessary to modify or vary the provisions of their wills, and in consequence a large amount of redrafting of wills already on deposit has to be undertaken year by year. During the past year 3,375 wills were so redrafted. During the year a complete overhaul of the wills-deposit files at the branch offices throughout New Zealand was undertaken and disclosed very satisfactory conditions. The periodical stocktaking of all wills on deposit has been commenced. The magnitude of the task will be realized when it is known that there are now over 58,000 wills on deposit. The stocktaking, which is carried out as an additional safeguard at periods of approximately every two years, is a very necessary work when so many wills are being handled by the Department.

83. It is surprising with what reluctance many persons face the important task of making a will. Statistics have been compiled in some countries and strikingly bear out this contention. Judging by the Office statistics, I am of opinion that in New Zealand, at any rate, increasing numbers of persons are realizing its importance and are taking steps by means of testamentary directions to ensure the efficient administration of their estates and the protection of their dependants.

The testamentary disposition of an estate is the problem of the testator himself, but the drafting of a will providing for the distribution is a skilful act requiring the services of an expert draftsman. The importance of testators availing themselves of the skilled services of competent advisers in the preparation of wills cannot be too strongly emphasized. There is no more fruitful source of litigation and heartburning amongst beneficiaries and dependants than the carelessly or imperfectly drawn will. Obviously this must be so. The drafting of wills and trust instruments is the most difficult and delicate work in the whole range of legal draftsmanship, and is surrounded by more pitfalls than any other. When it is realized that oftentimes the directions of testators are of the most complicated order, and that the language of the documents, if difficulties are to be avoided, must be clear and unambiguous, the necessity of skilled assistance becomes apparent. The problem of divining the intentions of testators whose directions are couched in contradictory or ambiguous language is one of the most difficult confronting our Courts, and for the reason that the directing parties cannot be consulted it is inevitable that sometimes it is wellnigh impossible to solve the incidental problems.

To some it may well seem that I have exaggerated the difficulties arising from unskilled will-drafting. Such persons may naturally consider that, as they have a thorough knowledge of their own affairs and intentions, they are capable of expressing their directions clearly. To these it can only be reiterated that experience proves the contrary. Persons whose everyday task it is to put into writing their thoughts and directions cannot avoid the pitfalls surrounding will-making, and how much more difficult must it be for the vast majority of people whose training and occupation do not fit them for such a task.

The Office fully realizes the importance of will-drafting and the responsibility involved in providing for the testamentary distribution of the estates of persons in all walks of life. As I have stressed on previous occasions, every possible care is taken to ensure that the intentions of testators are fully given effect to. A personal interview by a skilled officer is arranged whenever possible, and in every case complete instructions on a specially prepared form are taken and placed on record. No will prepared by the Office staff is finally filed away until it has been compared with the instructions and passed by a skilled legal practitioner in the Head Office. Obviously, in all matters relating to trust administration the departmental officers have a wide experience. The legal staff prepares or peruses some 7,500 new wills every year (including redrafts), and deals with all phases of administration law. Hence the staff is well qualified for advising testators in the making of their wills and the drafting of the instructions when the disposition has been decided upon.