

***Loring, A Trustee's Handbook: 2003 Edition*, by Charles E. Rounds, Jr. New York: Aspen Publishers, 2003, ISBN: 0735538239pp. 683. \$175**

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The 2003 Edition of this useful and classic treatise has been on trust officer's desks more than 100 years. As the Preface notes, this distinguished handbook is now in its 104th year. Few law books enjoy such a distinguished lineage. The late nineteenth century also marked the rise of "doctrinal writings." Perry Miller, *The Life of the Mind in America from the Revolution to the Civil War* 156 (1965). Loring was a doctrinal writer because he organized a subject much like Williston on Contracts or Maitland on Torts. Only a handful of doctrinal treatises have maintained the quality than the original work. The latest edition of *Loring: A Trustee's Handbook* is an example of doctrinal writing at its best. The first edition of the modestly titled *A Trustee's Handbook* by August Peabody Loring was published in 1898. Loring staked out the basic concepts and methods of trusts, placing a frame around a rag-bag of cases and statutory developments. Rounds follows Loring's tradition in not only describing the law, but restoring order to the field.

This work has a long history of converting abstract expressionism into English landscape paintings. The best doctrinal writing places a structure on ever expanding and sometimes conflicting case law and statutory development.

The path of this doctrinal writing may be traced from Augustus Peabody Loring to Mayo Adams Shattuck to James F. Farr to Charles Rounds. (xxiii). Professor Rounds, professor of law at Suffolk and Fellow of the American College of Trust and Estate Counsel is eminently well qualified to author the 2003 edition. It was Charles Rounds who completely revamped Loring's treatise in 1992. While the handbook still bears Loring's name, it is a work that reflects and embodies Charles Rounds. In 1992, he entirely remodeled the Loring's treatise to make it ready for the new millennium. He provided so many enhancements from earlier editions.

The 2003 Edition is thoroughly updated including new developments such as whether a court may reform an unambiguous trust. The 2003 Edition has completely revamped the section on damages. The 2003 edition includes new coverage in fourteen areas that include the Hershey Trust, Honorary Trusts (including trusts for Pts), The Incentive Trust, The Joint Trust, Income Taxation of Business Topics. (xxvii). Fourteen new sections, seventy pages of new text, and revived footnotes and statutory references make this edition worth purchasing.

The organization of the trustee's handbook is organized around the big issues in trust: 1. Introduction; 2. The Property Requirement; 3. The Trustee's Office; 4. Interests Remaining with the Settlor, 5. The Beneficiary; 6. The Trustee's Duties; 7. The Trustee's Liabilities; 8. Miscellaneous Topics of General Interest to the Trustee; 9. Special Types of Trust; 10. The Income Taxation of Trusts. In addition, there are VI appendices, a Table of Cases, Table of Restatements, Table of Uniform Acts and Index.

This book is artfully written. The reader is given a roadmap to the concepts and methods of trusts. He clearly defines the key terms. For example, "[s]ettlor encompasses any person who creates a trust with his own property, whether by lifetime transfer, by declaring himself trustee (i.e. by declaration), or by will." (p.9) A will created by the terms of a will is a testamentary trust versus an *inter vivos* (living) trust created by a life-time transfer or declaration. (p.9) Professor Rounds is one of the legendary teachers at Suffolk University Law School where he is won teacher of the year on numerous occasions. His desire to teach is reflected in every page of *The Trustee's Handbook*. This

book is an excellent roadmap to key practical issues confronting trustee's or lawyers handling fiduciary relationships. *The Trustee's Handbook* is not only a practitioner's desk book but a useful text for students as well as practitioners. Every trust department should supply this handbook to their key personnel.

The Trustee's Handbook "addresses the rights, duties, and obligations of the parties once the trustee takes title to the trust property, that is, once the property is in the basket." (p.8). The field of trusts is not just about estate planning. Trusts are everywhere from mutual funds to endowed pet cemeteries. Professor Round's treatise will be of interest for a wide range of trusts, though his emphasis is on personal trusts designed for human beings.

His introductory chapter clearly articulates the importance of the fiduciary relationship in Anglo-American jurisprudence. The concept of the fiduciary originated in the law of equity cross-cutting the allied fields of agency, trust, and equity. Few law schools in the country now have separate courses in equity and on the role of the fiduciary. Yet, so many of our legal institutions are built upon the bedrock of the fiduciary. The concept of the trust evolved out of equity jurisprudence at a time when law was analytically and doctrinally separate from equity. The trust has evolved into a key legal institution in our advanced capitalistic economy.

Professor Rounds describes the dangers of "fiduciary capitalism" in which fiduciaries face a conflict of interest due to the high concentration of economic power. (p.11) He argues that judges and lawyers need to understand the trust in order to control potential abuses. (such as mega-pension funds) Law students and lawyers alike will benefit from the path of the law of trusts developed in the introductory chapter. This chapter sets the stage for the remainder of the chapters in an uncommonly cogent portrait.

Practitioners and academics alike will appreciate the very clear sketch of the role of the fiduciary. Rounds cogently capture the essence of the fiduciary as a "duty imposed by law to act solely for the benefit of another as to matters within the scope of the relation." (7-8) The trustee is the epitome of the fiduciary as is the attorney/client, doctor/patient, and parent-child relationship. (p.8). Professor Round skillfully parses out the distinction between the fiduciary and the confidential relationship. The fiduciary owes a broader duty than a relationship arising from confidence. A fiduciary relationship occurs even if there has been no reliance. (p.8). The consequence of this key difference is that a beneficiary in an action against the trustee need not prove reliance, only the breach of fiduciary duty. (Id).

Lawyers and law students alike need to understand these basic concepts to avoid professional malpractice. The law of trusts has not fared well in American law schools. Rounds documents that only 20 of the 180 ABA-approved law schools require a course in the law of trusts. (p.565). Law schools ignore the law of trusts at their peril. As Professor Rounds notes, the law of trusts is as basic to legal education as the periodical table is to the hard sciences (p.565). Rounds sketches a compelling argument why all lawyers need to know about trusts. Like all good doctrinal writers, he has a love for his subject and an interest in its continuing vitality.

Every chapter is filled with examples and explanations that work well. August Peabody Loring would have been very impressed that software support is available for the 2003 edition in the form of a CD-ROM. The CD-ROM contains appendix materials previously found in the print version of past editions of the book. The CD-ROM contains detailed information on relevant income, gift, estate, and generation-skipping Internal Revenue Code Sections. The 2003 Edition continues to be a model of excellent with its careful organization, close editing of seminal cases, and efficient use of footnotes. Professor Rounds, like Jack Webb's Joe Friday, sticks to only the pertinent facts. If Joe

Friday had been a legal academic, he would have followed Charles Round's example in eschewing long string citations. Like Loring, Rounds has imposed order on the law and policy of the trustee. This edition should enjoy even greater success and circulation in the law schools and in the law offices.

No academic law library can afford to be without the 2003 Edition of Loring. This is the classic treatise on the role of the trustee. Professor Scott of Harvard was so fond of Loring's treatise that he kept it close by when writing his multi-volume treatise on the law of trusts. Every legal academic teaching in the field of trusts or allied fields needs their own copy. This is book that is not just for trust officers or trustees. Every lawyer needs ready access to this important reference.