dren or parents of the deceased.
(3) Any person who shows objectionable behaviour/conduct towards the deceased or who has committed a crime resulting in financial benefits indirectly from the estate of the deceased, is unworthy to benefit from his wrongful act.
(4) Notwithstanding the provisions of subsection (1):
(a) A court may declare a person referred to in subsections (1 – 3) to be capable (worthy) to receive a benefit from a will of the deceased or otherwise from the estate of a person if the court is satisfied that the person's act was justifiable or he or she is not accountable/blameworthy.
(b) A conviction of a crime in a criminal case, related to the death of the deceased or to a benefit that accrues to the person, is sufficient evidence for subsections (1) and (2) to take effect.
(5) For the purpose of subsections (1) and (2) the nomination in a will of a person as executor, trustee or guardian shall be regarded as a benefit to be received by such person from that will.

She said that the Wills Act already disqualifies certain persons from inheriting, such as someone who has handwritten the will of a deceased person or someone who has witnessed the will. She said that expanding these disqualifications and making the findings of a criminal court admissible evidence in a civil case were much needed amendments.

Ms Williams spoke about the practical problems the executor in a deceased estate faces in cases where potential heirs are disqualified, either by the mentioned existing provisions of the Wills Act, or by the '*bloedige hand*' rule.

She said that the consequences of a disqualification are usually disruptive on the performance of the functions of the executor. Ms Williams said that an executor has to make tough calls and is caught between not wanting to transfer an inheritance to someone who is under a cloud as a potentially unworthy person, and the requirements of the Administration of Estates Act 66 of 1965, as well as the demands of the Master of the High Court under this Act.

Ms Vorster spoke about the corporate liability of trustees. She began by saying that it was important to understand the nature of trusts, as explained in *Land and Agricultural Bank of South Africa v Parker and Others* 2005 (2) SA 77 (SCA) at para 10:

'Except where statute provides otherwise, a trust is not a legal person. It is an accumulation of assets and liabilities. These constitute the trust estate, which is a separate entity. But though separate, the accumulation of rights and obligations comprising the trust estate does not have legal personality.

It vests in the trustees and must be administered by them – and it is only through the trustees, specified as in the trust instrument, that the trust can act. Who the trustees are, their number, how they are appointed and under what circumstances they have power to bind the trust estate are matters defined in the trust deed, which is the trust's constitutive charter. Outside its provisions the trust estate cannot be bound.'

She emphasised that trustees are duty bound to understand the contents of the trust deed and to execute it faithfully while exercising an independent discretion.

Mr Shapiro spoke on wills under the title: 'Your will – a legacy of love or a deluge of destruction?' He said: 'A good will is not that it will stand up in court, but that it will not need to go to court at all.'

Mr Shapiro said that everyone dies with a will, 'you either make your own will, or the law makes it for you – under the rules of intestate succession'. He added that one of the most common mistakes people make when considering a will is assuming that their estates are not worth enough to warrant a will. 'We work so hard to accumulate a nest-egg for our near and dear ones when we are no longer here to provide for them but leave the distribution of one's hard-earned wealth when it really counts, to chance,' he said, adding that even though certain property is not in one's estate, it still may be dutiable. Mr Shapiro said assets such as life insurance proceeds, accrual claims, foreign assets, usufructs and fiduciary interests are included in one's estate for the calculation of estate duty.

Mr Shapiro said that one's will was the document that gives dignity to one's financial affairs and determines the orderly distribution of one's estate when one is no longer here to do so. He added that a will was a letter of gratitude and should leave a legacy of love.

Mr Shapiro then gave a few pointers on the drafting of wills. He said according to s 4 of the Wills Act, a will can be drafted by anyone who is 16 years or older unless the person, at the time of making the will, is mentally incapable of appreciating the consequence of his or her actions.

Mr Shapiro then spoke about witnesses of a will. He said:
- Anyone who is 14 years or older who at the time he or she witnesses the will is not incompetent to give evidence in a court of law.
- A beneficiary named in a will should not sign as a witness as he or she may be disqualified from receiving any benefit from the will; however, the will remains valid.

Mr Shapiro highlighted the formal requirements to validate a will outlined in s 2 of the Act. The requirements are as follows:
- The will must be in writing – by hand, typed or printed.
- The maker of the will (testator) must sign it at the end of the will.
- The testator must sign all other pages of the will, anywhere on the pages other than the page on which it ends.
- The testator must sign the will in the presence of two competent witnesses.
- The competent witnesses must sign the will anywhere on the last page of the will in the presence of the testator and of each other.

He added that the definition of 'sign' includes initials and, only in the case of a testator, a mark.

Mr Shapiro said that for a will to be valid there must be absolute compliance with the requirements of the Act. If a will fails to comply, it will be rejected by the Master, which may lead to a High Court application 'to rectify what you should have done correctly in the first place'.

According to Mr Shapiro, one's will should be a practical document in simple language that records one's intention and is easy to understand and execute. 'Do it yourself cheapies are really not adequate and often end up costing a lot more than the imaginary saving, leading to difficulties, delays and the expense of court cases,' he said.

Mr Shapiro touched on the parties excluded from benefiting from a will. He said that these included:
- A witness to a will or a person who signs the will on behalf of the testator or a person who writes the will or any part thereof in his or her own handwriting (manuscript) and any person who is the spouse of such person at the time of execution may be precluded from receiv-

*The Chief Master of the High Court, advocate Lester Basson, speaking at the Fiduciary Institute of Southern Africa's annual conference in Midrand in September.*