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Book Review: Cases on Federal Taxation, By Joseph Henry Beale and Rosewell Magill

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The author of the present volume tells us that his motive is "to stimulate the interest of the laity in the law" but as the needed improvement, so much desired, can not be had save by the devoted labors of those versed in law and jurisprudence the book can be of service to all members of the legal profession, for despite the exaggeration and contradiction *Lycurgus* contains many a good suggestion—witness the summing up in the introductory chapter of the "Many ways by which all law is likely to be brought into contempt."

'Tis strange, however, how one who in "Preface" praises "Medieval men and women who were far better educated than the newspaper reader of today—and comprehended logic and the rules of reasoning far better than the ordinary voter of our time" can himself be so illogical as to think that there must of necessity be opposition between common sense and theological doctrines (p. 4), and it is to be regretted that one so opposed to the "Servile State" and the gross tyranny of the new bureaucracy, so devoted to family rights and individual liberty, so desirous of true morality and civilization should advocate an easier system of divorce.

H. B. M.

Cases on Federal Taxation. BY JOSEPH HENRY BEALE and ROSEWELL MAGILL. New York. Prentice-Hall, Inc. 1926. pp. xv, 719.

The book recently published by Joseph Henry Beale, royal professor of law in Harvard University, and Roswell Magill, associate professor of law in Columbia University, is designed as an aid to students and instructors in the administration of the federal laws on the important subject of taxation. Until recent years this subject was regarded as unworthy of the serious attention of students of law and was so largely statutory and constantly changing that it could not be treated systematically, or could a definite body of principles be developed from the decided cases. Cooley's great work on taxation was a complete volume of the laws existing at the time and a philosophical exposition of the principles governing the same, but the purpose of this book was primarily to aid the practitioner in the treatment of specific cases and is too elaborate and detailed for classroom study. The extensive litigation growing out of the income tax and the transfer tax has produced a considerable body of law of direct interest to business men and their advisors. A course on this subject was therefore urgently required, and this book, prepared by professors Beale and Magill, was designed to satisfy that need.

An examination discloses a careful selection of the principal decisions of the United States Supreme Court, the Court of Appeals and the several state courts, together with the major decisions of the Board of Tax Appeals not yet passed upon by the courts. The book contains the leading cases, such as *Pollack v. Farmers Loan & Trust Company*, *Flint v. Stone-Tracy Company*, *Brushaber v. Union Pacific Railway Company*, which pass upon the constitutionality of the income tax; *Eisner v. Macomber* and *Town v. Eisner*, on the taxation of stock dividends; and indeed all of the cases in which the court has been called upon to decide the important features of the income tax law.

The book is arranged in four parts. The first and most important part is devoted to the construction of the income tax in its constitutional aspects and as applied to different classes of taxpayers. Then follows a separate chapter on individuals, and another on corporations. Chapter 5 treats of the tax on estates and trusts, and Chapter 6, the administrative provision.

In a second part the estate tax is considered with a separate chapter on transfers *inter vivos*, a discussion of credits, deductions and exemptions following. A

separate chapter is devoted to non-residents, and there is a timely and full discussion of administrative practice. Part 3 relates to the gift tax, and part 4 to the capital stock tax. The cases illustrating the law, construing its various provisions and defining its limitations contain all the leading decisions upon this question, including the decisions of state courts, where income and inheritance taxes are in force. All considered, it is a very timely and useful contribution to the subject of taxation and cannot fail to assist in systematizing the subject and reducing taxation to a more scientific basis. Professors Beale and Magill are to be commended on the excellent judgment they have displayed in the preparation of this work.

The tax in the first instance being administered by the internal revenue department there is interspersed throughout the work copious quotations from rules of administration laid down by that department. Without prejudice to the purpose for which the book was designed, the suggestion is ventured—that a topical index may profitably be added to facilitate the locating of rules.

THOS. E. LYONS

Outline in Torts. BY H. B. SCHERMERHORN. Philadelphia. George T. Bisel Company. 1925. pp. 436.

This book contains, in outline form, the essentials of the principles and usual divisions of the law of Torts, such as Assault and Battery, False Imprisonment, Trespass, Conversion, Unfair Competition, Malicious Prosecution, Deceit and Negligence. Like any outline this should be helpful to a student in piecing together the detailed information which he has acquired by the study of cases, and although the author does not state what object he had in view in the preparation of the outline, it would seem that this was the purpose which he sought to accomplish. Necessarily an outline cannot and is not expected to develop the detail of a subject, but the author has accomplished this end by the insertion of what he calls "Problems and their Answers." These problems are in much the same form as the hypothetical question ordinarily given in quizzes and final examinations in the better law schools. This feature renders the book useful to professors teaching the subject, as the statement of each problem is especially accommodated to the topic of the law of Torts under which it is located.

As a sort of Appendix to the book, beginning on p. 422, is found a list of collateral reading in Tort, which seems to be particularly well selected. Although all of the references to the legal periodicals here contained are to be found in the current index to legal periodicals, this feature of the book is valuable to anyone who has not access to this index.

Appended to the above list is found, on Page 430, a list of writers on the law of Torts, also a list of the principle collections of cases upon the subject. The index follows the traditional form.

The author claims to have reduced the questions involved in the law of Torts to two. This, for the moment, is encouraging to the tired student and any professor who has been seeking a short-cut means of imparting a knowledge of the law. The comfort which may have been derived by a naive acceptance of this statement is found, however, to be of short life, because the first question as stated is, "What are the indispensable elements of allegation and proof essential to the plaintiff's case in each of the actions in tort?" and the second question is, "What matters of defense in each action will, if sustained by proof, defeat the plaintiff's claim?" Upon reflection, these questions do not seem at all new, but on the