

Cases and Materials on Federal Taxation. By Erwin N. Griswold. Chicago: Foundation Press, Inc., 1940. Pp. xxi, 744. \$5.50.

Cases on the Law of Taxation. By John M. Maguire and Roswell Magill. 3d ed. Chicago: Foundation Press, Inc., 1940. Pp. xxii, 1069. \$7.00.

At the turn of the last decade one could count three casebooks on taxation. Beale and Rottschaefer had casebooks devoted mainly to state problems. Beale and Magill had a casebook on federal taxation. The common stumbling-block was that neither the state nor federal picture justified a special emphasis. State taxation was more a collection of cases than a field in itself. The real field, the federal field, was still too embryonic. Magill and Maguire saw the difficulty and bridged it by combining an even measure of state and federal materials in one casebook. As a temporary workshop the combination had merit. It was comprehensive, scholarly and usable.

Nine years have passed since that first edition, and the federal tax structure has taken on staggering proportions. There has been a growing feeling among students, teachers, and lawyers that the "specialized art" of taxation—to which Magill and Maguire dedicated their work—shifted long ago to the federal scene. The current third edition of Magill and Maguire offers no palliative for this sentiment. It is essentially the old combination of state and federal cases. Either Magill and Maguire have not seen the change, which is quite unlikely, or else they are content to continue as the classic, general standby.

Professor Griswold's new casebook on federal taxation comes as a timely secession by one who admits his bias. After teaching for six years out of Magill and Maguire, it is interesting to note his points of departure from Magill's federal tax chapters. First of all he brings a new thoroughness in the treatment of federal tax problems that a specialized study makes possible. Sections of the Code which Magill has not touched on are now developed for the student. Where Magill brushes only the high spots, Griswold has painted the full picture. In the material on estate taxes, for example, the student will find new sections on Property Owned by the Decedent, Marital Interests, Valuation, Credit and Computations, and a wealth of additional cases on Jointly Held Property, Appointed Property, Life Insurance, and Charitable Bequests. In the material on the income tax there is a long-awaited section on Capital Gains and Losses, a more adequate handling of Accounting Problems and some attention to Special Problems with Respect to Corporations and Associations.

There are forward strides in Griswold's presentation of federal tax materials. He has devoted 102 pages to the development of a background designed to orient the student. His organization of section headings and subheadings knits closely with the statute as it reads. This is particularly true in the Estate Tax chapter where the student can lay Section 811 of the Code (the old Section 302) side by side with the Table of Contents. This technique brings the statute in closer focus and makes it a primary consideration during all case and problem discussion. Past neglect of this principle, more than any other cause, has led tender minds to practice the common law of federal taxation.

Another solid contribution is Griswold's reworking of Magill's categories. Perhaps the greatest advance yet made in tax pedagogy was Magill's 1936 revision of his income tax chapters. That formulation changed the conventional collection of cases into a fundamental inquiry on the nature of income, its flow, and realization. However, Magill ignored teachability. He started out with the problem of realization and

plumped the student directly into corporate distributions. Then followed sales and exchanges, and accounting methods. Griswold had changed this. He starts with the simple inquiry: What Is Income? He then proceeds to the questions: Whose Income, Is It?; and When Is It Income? He has reordered and simplified Magill so that students may grow into the ideas from the statute, rather than into the statute from the ideas. The improvement is substantial.

In other chapters of the casebook Griswold pays his respects to the Gift Tax, General Problems and Miscellaneous Taxes. In the latter chapter he marches through excise, excess profits, social security and stamp taxes (among others) in 45 pages. Such a hit-and-run compilation drawn from rich quarries of a tax law is lamentable. It would have been far better to limit the casebook to Estate, Gift and Income Taxes than to keep this "gentleman's acquaintance" with scholarly problems.

On the whole, however, Professor Griswold's new casebook is a satisfying improvement on what has gone before. As a forerunner of what is to come it leaves one more doubtful. There must soon be a reckoning with present methods of teaching federal taxation. They have not been yielding a mind adaptable to complicated fact records. Fact significance, fact differentiation, fact weight, fact shadings—the very heart of tax practice and the tax process—are somehow missed in the broad loom of classroom discussion and Supreme Court decision. It must be seriously questioned whether a student can grasp this with Professor Griswold's casebook in one hand and the regulations in the other. Some new approach must be in the making.

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## BOOKS RECEIVED

- American Empire: A Study of the Outlying Territories of the United States, The.* Edited by William H. Haas. Chicago: University of Chicago Press, 1940. Pp. xi, 408. \$4.00.
- Bottlenecks of Business, The.* By Thurman Arnold. New York: Reynal & Hitchcock, 1940. Pp. ix, 335. \$2.50.
- Cases on Creditors' Rights.* By Garrard Glenn. St. Paul: West Publishing Co., 1940. Pp. xxii, 1177. \$6.00.
- Cases on the Law of Damages.* By Raph S. Bauer. 3d ed. Chicago: Callaghan & Co., 1940. Pp. xxi, 646. \$5.50.
- Cases on Domestic Relations.* By Joseph Warren Madden and William Randall Compton. St. Paul: West Publishing Co., 1940. Pp. xxiii, 900. \$6.00.
- Cases on Evidence.* By Charles T. McCormick. St. Paul: West Publishing Co., 1940. Pp. xxii, 1035. \$6.50.
- Cases on Insurance.* By William Reynolds Vance. 3d ed. St. Paul: West Publishing Co., 1940. Pp. xxxvi, 964. \$6.00.
- Cases and Other Materials on Debtors' Estates.* By Wesley A. Sturges. 3d ed. by J. Douglass Poteat and Eugene V. Rostow. St. Paul: West Publishing Co., 1940. Pp. xxi, 886 + statutory supplement. \$6.50.
- Cases and Materials on Equity.* By Walter Wheeler Cook. 3d ed. (one vol. ed.) St. Paul: West Publishing Co., 1940. Pp. xxviii, 1296. \$6.50.