

of the labor and associated groups is sufficient to force the monetary authorities to inflate, why is it not sufficient to force the wage-control authorities to supply the same increase in income?" The recent steel strike points up all too well the prophetic character of this remark.

VI

My space is running out and I must omit the galaxy of other fascinating topics raised in this challenging book. To me the real objection to controls are those pointed out by Dr. Stocking (p. 289) as follows: "Under authoritarian controls administrators quickly learn that it is easier to regulate prices in industries of few sellers than in industries of many sellers. They therefore encourage associated activity to simplify the problems of control. Concerted action tends to become habitual." And Professor Jewkes (p. 303), "I do not think there can be any doubt that the movement for planning in Great Britain in the postwar period has been led and advanced very largely by men who had been in charge of war planning during World War I, had tasted the pleasures of the job, had been so persuaded by their success that they thought it ought to be preserved for peacetime." One need only read the recent writings of Professor Galbraith to see how apropos these are.

I do not myself feel that we could rely as heavily on monetary policy as Dr. Friedman thinks, though I do not in the least challenge the formal validity of his argument. But I do think that a combination of Friedman's monetary policy with Jewkes' purchase tax would do the job. There may also be a case for some direct physical allocation of materials where the market works too slowly. In all-out war *all* weapons will probably be needed in economics as well as in fighting. But it seems to me that today the controls are like aspirin—they make us think we are doing something to help the disease when in fact we are not. And I suggest that the real danger is that they are likely to be manipulated—quite consciously and cynically in some cases—to create a massive, equalitarian, corporatist stalemate. As Dr. Viner says "Our freedom will not be wrenched from us but we may *give* it away." (Emphasis added.)

David McCord Wright*

The Federal Taxing Process. By Roy Blough. New York: Prentice Hall, 1952. Pp. x, 506. \$5.65.

If authors felt called upon to write books only when they have had some unique experience, the number of publications would be drastically reduced and the world would not suffer too much in the loss of literary and scientific contributions. We would still have *The Federal Taxing Process*, for its author went to a very exclusive school in the executive sessions of the Congressional tax committees. He was a very apt pupil, no doubt, and his observations both on the

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procedural and the substantive aspects of taxation are here presented. It is in his clear exposition of procedure and its integration with substance that the author makes his main contribution.

Professor Blough selects as his major problem: How does federal tax policy emerge from conflicting opinions? This involves an exposition and analysis of the major steps involved in converting a tax idea into law, and of qualifying, sustaining and applying the law to produce revenue. The remainder of the book is devoted to the substantive issues: What are the relevant considerations in decisions regarding the amount of revenue to be raised? On what specific issues of tax distribution do controversies focus? Does the resulting policy satisfy the public interest? In seeking to answer these questions, or, more accurately, to lay the foundation for their answers, the author becomes involved in a substantial discussion of budgeting in general, and compensatory budgeting in particular.

With this brief account of the plan and content of this book, we shall proceed forthwith to discuss some of the challenging propositions presented in its pages. We may begin with its account of the areas of harmony and conflict in taxation. Particularly intriguing is the suggestion that were the vehement contestants to take a long and discerning view of their self interest, the area of conflict would be greatly reduced, perhaps to the vanishing point. The reviewer observes that this position is in accord with the time-honored theme of philosophy that, as the lines stretch out into the distance, enlightened egoism and altruism become scarcely distinguishable. Thus the higher brackets might applaud the progressive income tax on the ground that it constitutes insurance both against personal adversity and the dangers of inflation and revolution. One writer¹ has indeed suggested that it is the conservatives who should build the monument commemorating the inauguration of the net income tax. This suggestion sounds very plausible, but it encounters the conflicting plea for harmony because the little fellow has most at stake in freeing the hand of the creative enterpriser. Thus, as Professor Blough indicates, the clash of interests emerges as a clash of faiths and attitudes. There seems little probability that what may constitute genuine harmony of interests will resolve itself into a harmony of attitudes; but education to keep conflict in bounds appears to be a very useful support for the democratic process.

Professor Blough continuously emphasizes the distinction between the objective and the subjective in taxation. He says that the proper choice among competing objectives is not something that can be proved or disproved; no authority exists who is qualified to pass on questions of value and purpose; any person who makes choices among interests and values is acting as a politician; any person who analyzes economic effects is acting as a scientist. Science can lay the foundations for decision-making, but science must stop before the point of decision. The reviewer has no quarrel with the view that ultimate decisions in many areas should be made by popular or representative vote. But he would like

¹ Galbraith, *American Capitalism* 188 (1952).

to rejoin with what he understands to be John Dewey's approach to these matters²—an approach which de-emphasizes the distinction between areas of value and areas of fact. There are few, if any, controversial points in taxation that do not lend themselves to analysis and research, and there would not be much left for scholars in the field if they confined themselves to points upon which all competent authority must agree. Thus the frequent assertion that matters of progression and of inequality in income distribution are for social philosophy rather than for science is only relatively true, if at all.³ Professor Blough, following long habit, one suspects, frequently stops short of expressing an (exceptionally well qualified) opinion. This does not often detract from the usefulness of his book but the reviewer is not convinced that he would have been less scientific or effective had he ventured a few more commitments. Indeed, in some cases the effectiveness of his exposition would have been enhanced had he felt the obligation to balance off the arguments and assert his position.⁴

The author's defense of the expert in government, on the other hand, is sensible and convincing. The expert may often have to suppress his views and step outside his professional role in order to succeed in a bureaucratic environment. He need not forsake a strict standard of honesty and competence. The expert has much to learn and much to contribute in this sort of active role; the bar of opinion, accordingly, should judge his trials of conscience with charity.

Professor Blough's account of the role of group thinking in the taxing process is revealing. A tax bill evolves by group thinking in committee and even a research study in the Treasury staff is shaped, guided and fertilized by frequent conferences. Truly, democratic government is a highly cooperative art with very little usefulness for the inflexible intelligence that stands so rigidly on fixed principles that all compromises are unacceptable.

The author makes a useful if not an original point when he calls attention sharply to the overwhelming predominance of producer groups and self-interested witnesses that appear before Congressional committees. The committees forge tax policy in an atmosphere of intense pressure and with very inadequate representation for the over-all view. Attempts to maintain a "people's lobby" and to raise the consumer's voice about a whisper have not been conspicuously successful. But such efforts deserve encouragement.

Separation of spending and taxing programs at the legislative level is more or less accepted by the author as dictated by our form of government and the size of its programs. It is recognized that this system hampers the balancing of costs against benefits and obscures the over-all aspect that should count in the consideration of specific measures. Certainly, until all appropriation programs

² Dewey, *Theory of Valuation* (1939).

³ Kalven and Blum, *The Uneasy Case for Progressive Taxation*, 19 *Univ. Chi. L. Rev.* 417 (1952).

⁴ Moreover, the author did not follow his own rule consistently as even reading this review will establish.

are consolidated, there seems little hope for the integration of tax and spending measures. The author might have observed here, it seems, that some states have done much better in this area than the federal government.

The first-rate exposition of the role of the Bureau of Internal Revenue and of the courts in the taxing process includes an account of some of the criticisms that are currently directed at these institutions. A point against the Bureau is that its auditing efforts are not distributed evenly over the universe of returns. Another is that the Bureau promotes, or at any rate develops, a mercantilistic spirit with too much competition in terms of recovered tax. One of the worst practices alleged to result from this policy is the planting of errors in order to appease auditors' appetites. Professor Blough finds that there is a measure of truth in both of these criticisms but that an assessment of blame and a prescription for improvement are not easy. More liberal allowances from Congress would help in both cases.

One of the most prevalent criticisms of both the Bureau and the courts is that they assume quasi-legislative power. It is alleged, for instance, that the courts have read intent and content into tax laws with the purpose of avoiding loopholes. Legal influence upon legislative trends has not always been happy: the case of splitting income culminating in the act of the Eightieth Congress providing for per capita division among spouses is cited as persuasive evidence. But the legislative process in the framing of tax laws is necessarily an incomplete and fragmentary matter. The economic world is too complicated to expect otherwise. Moreover, the group-thinking of Congress frequently leaves no clean-cut indication of intent. "If Congress fails to pass legislation . . . the reason may be that the committees simply did not have time to act, because of the pressure of higher priority business. Or if the matter was considered, it may have been blocked by a few strategically located persons, who by no stretch of the imagination are the keepers of the conscience of Congress" (p. 201). The alternative to judicial legislation is not likely to be effective Congressional action but more complete and courageous use by the Bureau of its rule-making power supported by the courts and Congress.

Professor Blough states that the court's role in the taxing process is also criticized both for its delay and on the ground that conflicting opinions in different jurisdictions continue to plague practitioners and taxpayers for an unduly long time. Particularly irritating are the opinions which are not appealed by the Commissioner and in which he nevertheless refuses to acquiesce. A single tax-appeal court to centralize decisions, to provide specialized personnel, and to speed up the judicial process has been advocated. Professor Blough expresses no opinion on this matter but cites sympathetically the fear that such a court would not have adequate contacts or be sufficiently representative. The reviewer lays no claim to expertness on the point but he finds the case for some reorganization very persuasive.

Turning now to the author's contribution on the substantive side of taxation,

it may be observed that some of his treatment is very sketchy. Yet even here there are many points of stimulation. Selecting two or three that stand out in the reviewer's memory, we may cite as one the revealing distinction the author makes between the economic, political and psychological limits to taxation. Of these, the economic limit is likely to be most hotly contested, but more often it is the other two which set the top level of taxes. Disposing of Colin Clark's popular thesis that taxes above twenty-five percent of the national income must produce inflation, Professor Blough remarks that "if the program of government expenditures leaves enough to support both a reasonable standard of consumption and sufficient investment to maintain productivity of the country, taxes to cover the expenses probably would not exceed the over-all economic limits of taxation" (p. 233). He adds: "Certainly inflation is more likely to develop if expenditures are made without taxes than if they are accompanied by taxes sufficient to cover them" (p. 233).

The treatment of the inflationary aspect of a high balanced budget seems, however, to fall short in some respects. Professor Blough recognizes the prevailing opinion that a balanced budget is no guarantee against inflation. Going further, he says that a high balanced budget may be disinflationary because the taxes entailed may activate idle savings. But he does not come to grips with the contention that high (or perhaps rising) public expenditures necessarily create inflationary pressure by superimposing a new demand for resources without an equivalent counteracting effect (through taxes) upon existing private demand.

The author places unusual stress upon the "abandonment of the gold standard" as a turning point in budgetary policy. He says that: "The fear for the integrity of the public credit was at bottom a fear of not being able to redeem obligations in gold. The mistake had been made earlier in the emphasis placed on the gold standard and in teaching the people that national bankruptcy and economic collapse would result from not redeeming in gold" (p. 240). The reviewer accepts this statement as a fair appraisal of this significant element in the truly revolutionary turn of events in the thirties, but he doubts that this view will meet with general approval.

The author's discussion of the factors involved in the selection of excises raises points not usually found in public finance texts. "Relatively few commodities," he says, "have the characteristics that make a commodity attractive as an object of excise taxation" (p. 341). Among these characteristics are a large sales volume, an inelastic demand, a clearly definable subject and the absence of direct competition with untaxed items. The excise tax works best in the case of commodities such as tobacco that have no close substitutes. A tax on fuel oil would not qualify because of the many close and highly competitive substitutes in fuel (reviewer's illustration). The British Purchases Tax defies many of these difficulties, but Professor Blough suggests persuasively that such a program would bog down with political and administrative difficulties in the United States.

This book should help to bridge the gap in tax literature between books written for and by lawyers or accountants on the one hand, and those written for and by economists on the other. (The gap will still remain, perhaps, until someone is brave enough to attempt the inclusion of tax incidence in a work of this kind.) The book also supplies a missing link between the procedural aspects of taxation and the economic and political issues in this field. Furthermore, its bibliographical feature is unusually complete and descriptive. The book should command not only a wide audience among lawyers and economists, but also among statesmen and laymen.

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Principles of International Law. By Hans Kelsen. New York: Rinehart & Co., 1952. Pp. 461. \$5.00.

When young Woodrow Wilson wrote *The State* in 1890 he contended that international law is really "not law at all," since "it is law without forceful sanction. There is no earthly power to enforce obedience to rules of conduct between nation and nation." A quarter of a century later he was embarked upon an effort to create such an earthly power, i.e., the League of Nations, in the fond but vain hope that international organization and collective security might make the "rule of law" as effective in the community of nations as in some of the Western communities of men. The same conception, implicit in the U.N. since its transformation into a vehicle of U.S. foreign policy, confronts us with the logical absurdity and moral paradox of "war for peace" in Korea, with almost everyone taking it for granted that international law can somehow be "enforced" through the armed coercion of law-breaking States by law-abiding States. That this assumption is not only wholly fallacious but conducive to the horrors of Holy Wars and the monstrosity (as Charles A. Beard once put it) of "perpetual war for perpetual peace" is understood by all federalists and by some international lawyers (e.g., the late Edwin Borchard) but is largely ignored in most of the literature of international law and in some of the literature of international politics.

The brilliant and erudite Hans Kelsen, Professor of Political Science at Berkeley and author of many learned tomes (including *General Theory of Law and the State* and *The Law of the United Nations*), rejects Wilson's original view and, amid much metaphysical pyrotechnics, comes close to accepting the now popular and always unworkable theory of collective security as the basis of law enforcement in the society of sovereigns. But his prime purpose is to offer a new textbook in public international law. He has indeed written a most excellent text which should find good use in and out of schools of law.

Kelsen's contribution covers briefly but ably most of the topics usually dealt with in works of this kind. His treatment is more "philosophical"—sometimes

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