

This book was based in large part upon a series of lectures.²⁸ A thumbnail critique would be that it has all the advantages and disadvantages of complex material given in the lecture form. Problem areas are outlined and illustrations sketched in "impressionistic terms."²⁹ This technique perhaps explains an occasional argumentative tone in the book.³⁰

Unfortunately, the book suffers from paragraphs of soaring generality and from digressions into analogies so long and developed as to become separate, and often unrelated, vignettes within the body of the work. Though the ultimate direction is clear, it often seems that "you can't get there from here," or, if you do, you may be too exhausted to enjoy it when you do.

Despite its limitations, this book is worth reading. The organization is remarkably clear. The outline is easy to follow. Concrete examples by way of illustration and clarification are plentiful. Mr. Hamilton brings to his subject vast learning and experience. His opinions deservedly carry weight. The common reader will gain an insight into the impact of the giant corporation and the self-government of industry upon the economy and its penetration into almost all phases of contemporary life.

If the title had followed content more closely, the book might better have been called "Politics in Industry—The Problem Posed." Perhaps, Mr. Hamilton will soon bring his attention to bear at greater length upon solutions to the problems he has analyzed in this book.

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²⁸ William W. Cook Foundation Lectures of the University of Michigan.

²⁹ P. 62.

³⁰ In reviewing this book, Senator Paul H. Douglas said of the author's style: "No one has been as successful as he in making plain, matter-of-fact economic situations mysterious, complex, and obscure. A master of stylistic bravura and chiaroscuro, his hand has grown even more skillful with age. . . . The style leaves an impression . . . that one has been fed a heavy diet of clotted cream." *Saturday Review*, June 29, 1957, at p. 17.

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Federal Estate and Gift Taxes. By Charles L. B. Lowndes and Robert Kramer. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1956. Pp. xxii, 1028. \$25.00.

Fifteen years have passed since Randolph Paul's treatise on Federal Estate and Gift Taxation¹ was published, and eleven years since it was supplemented. It is unhappily symptomatic of the uneasy life of the tax practitioner that he can make use of that work only for the occasional problem that requires historical research. The 1954 Code has had one wholesome result, at least, in germinating a new general work on the subject.

This is a very good book. The most immediately outstanding thing about it is the manner in which it is written. The authors (both Professors of Law at

Paul, *Federal Estate and Gift Taxation* (1942) (Supp., 1946).

Duke University) know how to use the English language well, and are willing to take the trouble to do so. Numerous books and articles on various subjects related to taxation are consciously written down for the lay lawyer or the layman. This, however, is a comprehensive treatise, and is not written down, but is nevertheless written in simple, straight-forward idiomatic English. The result is a very readable volume.

As random examples, "It would be a serious mistake to jump to the conclusion that";² "The bar was never very happy about the provisions of the 1942 Act taxing powers of appointment";³ "prompt action is usually required to renounce a power, and once a power has been accepted the only way to get rid of it is by exercising or releasing the power";⁴ "the Tax Court reached some rather bizzare results";⁵ "The practical situation behind the Regulations is something like this. Suppose that H has a million dollars and W, his wife, has nothing."⁶ The last quotation is a rather extreme example of the authors' ability to expound difficult concepts in a step-by-step succession of simple declaratory sentences. The phrase "the only way to get rid of it" is, at least, good American idiom. However, how many legal texts are there which would not contain something like "it would seem that no other legal concept is available by which the holder of a power can divest himself of possession of the power and its consequences?" (But converting "trustee" into a verb [p. 390] is going too far.)

The general approach throughout is a nice combination of scholarship and practicalities. The book contains both a thorough historical background and a thorough discussion of the present state of the authorities for the scholar and brief writer. It also contains practical signposts and warnings for the student or general practitioner. However, this is no horn book or do-it-yourself volume. The lay lawyer who wants a quick answer to a complicated drafting problem cannot expect to find it in a basic treatise. Nor is the volume a handbook for tax theoreticians. It contains little discussion of basic tax policy. However, one of its values is its objectivity. It is neither a taxpayers' brief nor a blueprint for social reform. It nevertheless contains considerable impartial discussion of the equities of various specific problems and it should therefore be of value to those concerned with legislation and administration.

The book is divided into three parts. Parts I and II treat of estate and gift taxes respectively. The most intellectually challenging portions of the field—the transfer sections and the power of appointment provisions—are, with a few exceptions, dealt with exhaustively. Among the dusty corners that are poked into are the status under section 2036 of 1931–1932 transfers;⁷ the taxability of

² P. 180.

³ P. 252.

⁴ P. 258.

⁵ P. 770.

⁶ P. 380.

⁷ Pp. 138–41.

contingent powers and powers limited by standards under sections 2036 and 2038;⁸ the transfer of joint tenancy property in contemplation of death;⁹ and the estate tax implications of joint powers and "reverse" powers¹⁰ under section 2041. A few problems which might have been met more squarely are the relinquishment of a retained life estate in contemplation of death;¹¹ whether a retained fiduciary power is an incident of ownership under section 2042; and the definition of a specific portion for marital deduction purposes. The gift tax treatment of powers of appointment, and particularly fiduciary powers, seems rather cursory in contrast to the estate tax treatment. The interrelationship between sections 2036, 2037 and 2038 is thoroughly covered in the text as a whole. The relationship of sections 2036 and 2038 is also briefly summarized.¹² It would be worthwhile, although probably a formidable task, to provide a more complete comparative summary (including effective dates)—preferably in tabular form.

Part III is called "Tax Planning for Estates." This reviewer is left with the suspicion that it was inspired by the publisher's sales department and not approached with either the enthusiasm or the surefootedness with which the authors dealt with the balance of their project (a suspicion based on an admittedly cursory examination, resulting from a surfeit of published material on the subject). It does not seem to be supported by the long practical experience, particularly in substantive law and human relationships, that lies behind Shattuck's handbook.¹³ Further, it is incomplete in that it does not deal with problems of draftsmanship (which it obviously could not within the covers of a single volume). In short, this part is not a significant contribution to legal literature, as the balance of the book is. Nevertheless what it says seems sound enough, and it will be a useful supplement to the rest of the volume for the general practitioner.

The only substantial defects of the book are mechanical, and probably belong at the doorstep of the publisher rather than of the authors. First, a separate series of chapter numbers is used for each part, and a separate series of section numbers for each chapter, which does not exactly facilitate reference to or within the book. Second, the part, chapter and section numbers are not reproduced in the margins of the text pages. Since references in the table of cases are to part, chapter and section, rather than to page, a cumbersome intermediate reference to the table of contents in the front of the book is necessary in trying to enter the book through the table of cases. Third, the table of cases does not

⁸ Pp. 138-41 and 200-2.

⁹ Pp. 230-34.

¹⁰ Pp. 261-67.

¹¹ P. 172.

¹² Pp. 170-73.

¹³ Shattuck and Farr, *An Estate Planner's Handbook* (2d ed., 1953).

contain references to footnote numbers in lieu of page numbers, nor does it contain reporter citations or even an indication of the courts by which the cases were decided. Fourth, there is no table of regulation sections, rulings or secondary authorities cited. Fifth, the index is inadequate—for example, the treatment of contingent powers under section 2038 is indexed, but not their treatment under section 2036. Finally, a separate table of contents at the head of each chapter would be useful. (For the authors' doorstep, the treatment of *City Bank Farmers Trust Co. v. McGowan* seems to belong in §9 rather than §10 of chapter 5 of Part I). On the credit side, the text seems entirely free of typographical errors, and the publisher deserves substantial credit for refusing to follow the example of some of its competitors in producing two volumes when one is more useful and less expensive.

The book is good enough to inspire the hope that its usefulness will be increased by a revised edition when the final estate and gift regulations have been issued, and the Mills subcommittee has done whatever it proposes to do, if anything, to the estate and gift tax sections of the Code.

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