

were unable to express an opinion. We can readily agree with the conclusion of Judge Miller that "the fact that six of the eleven psychiatrists could not diagnose Wright's mentality as of June 20, 1951, on the basis of examinations made long thereafter, while from similar data the other five professed to be able to do so, demonstrates a serious conflict in the medical testimony. It doubtless caused the jury to wonder how, and to question whether, the five could actually do what the other six equally qualified experts said they could not do. . . ." "About all the medical testimony in its entirety proved to a certainty is that psychiatry is not an exact science."<sup>10</sup> Perhaps there are advantages to leaving final determination of questions of responsibility to the good judgment of a judge and jury, thereby permitting Dr. Roche to keep his "symbols straight and pure."

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<sup>10</sup> Wright v. United States, 250 F.2d 4, 15 (App. D.C., 1957) (dissenting opinion).

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**Federal Tax Fraud Law.** By Ernest R. Mortenson. Indianapolis: The Bobbs-Merrill Company, 1958. Pp. vi, 312. \$12.00.

Tax fraud cases combine problems which lawyers encounter separately in fraudulent financial schemes, criminal prosecutions, and tax litigation. Since the same lawyer is rarely experienced in unthreading all three types of fabric, a treatise which comprehensively treats the total problem is a welcome addition to the library of all whose clients might some day receive a visit from a special agent.

Mr. Mortenson's *Federal Tax Fraud Law* is of inestimable value to tax specialists, general practitioners, and accountants alike, for it does more than discuss the litigation aspects of tax fraud cases: it also tells the whole story of a fraud case, from the beginning of the investigation to the trial of the case and the subsequent assessment and collection (or compromise) of the civil penalties. Mr. Mortenson's fruitful career in the Tax Division of the Department of Justice and the Chief Counsel's office of the Internal Revenue Service, preceded and followed by a considerable period of private practice, makes him a fit portrayer of the inception and development of a tax fraud case both from the vantage point of the government people who gather and evaluate the facts and from the viewpoint of the taxpayer's representative.

The hypothetical report of a special agent (pp. 34-43) is worthy of careful study, because it throws considerable light on the thought processes and investigative procedures of the agents, and reveals the reasons for some of the inquiries they make. It also shows the importance of developing facts favorable to the taxpayer as early in the investigation as possible. The practitioner who understands the type of report which an agent writes, and knows that alleged

defenses cannot be dismissed as self-serving if corroborated by other facts, will make every effort to supply substantiating evidence even if it might be inadmissible in court; for the agents will not reject the taxpayer's contentions unless the report shows that they are completely groundless or have been discredited by factual investigation.

This book is written in large measure as a practical handbook, and its worth is illustrated by the fact that in a recent trial in which the reviewer participated, counsel for both sides quoted from it in the courtroom in connection with legal arguments. The chapter on Trial of a Criminal Tax Case would serve as a typical pre-trial memorandum. Some of the problems and approaches are outlined in the form of questions and answers of witnesses.

But the effort to achieve practical usefulness has not been at the expense of adequate concern for conceptual considerations, and the frequent use of examples gives fuller meaning to the discussion of the many difficult legal questions which arise in tax fraud cases.

The use of indirect methods of proving evasion, such as net worth increases, expenditures, and bank deposits, is the subject of a separate chapter. While other evidentiary problems encountered in tax cases, as well as constitutional rights based on the Fourth and Fifth Amendments, are not exhaustively discussed, they are at least sufficiently presented to indicate the basic principles which apply.

The textual discussion is followed by a detailed appendix which summarizes the various criminal and civil penalties which might be applied in fraud cases, and by a topical index. Unfortunately, there is no table of cases. This is one serious handicap in using the book in the courtroom, where time may not permit the use of the index or table of contents in locating the discussion of a particular case which opposing counsel has just cited. Since the volume is equipped for a pocket supplement, it is hoped that a table of cases for the bound volume, as well as for the supplement, can be subsequently provided.

Mr. Mortenson has combined practical knowledge and the judgment born of experience with good scholarship in a book which is a good working tool as well as a source for research in greater depth.

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**Some Potentialities of Experimental Jurisprudence as a New Branch of Social Science.** By Frederick K. Beutel. Lincoln, Nebraska: University of Nebraska Press, 1958. Pp. xvi, 440. \$6.00.

Professor Beutel's book is one of the most recent additions to a long list of calls to arms that have appeared over the last fifty years in the fight to persuade people to make laws scientific. The general theme of this book is not a new one