

ass, nor do thou concern thyself with things that are out of thy sphere; and with all five senses remember this, that whatever I do, have done, and shall do, is no more than what is the result of mature consideration, and strictly conformable to the laws of chivalry, which I understand better than all the knights that have professed knight-errantry."

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Constitutional Uniformity and Equality in State Taxation. By WADE J. NEWHOUSE, JR. Ann Arbor: The University of Michigan Law School, 1959. Pp. 853. \$12.50.

This is a thick book. It is really three "books." First, it is a reference work of no mean proportions. The author has extracted from each and every one of the state constitutions the clauses dealing with uniformity and equality of taxation, has given the legislative history of each, and has collected the cases state by state. So far as I know, this is the only place in which this material is brought together. I am sure that no teacher of state and local taxation, and no draftsman of future revenue articles, will wish to be without it.¹ For reference use, it would be a better book if it were not for the fact that for analytical reasons the states are arranged in an order not alphabetical, both in the table of contents and in the body of the book. There is no index at all. This results in an excessive amount of thumbing. Already my review copy is beginning to look like an unexpurgated edition of *Lady Chatterly's Lover* in a lending library.

Second, it is a series of scholarly monographs on the limitations imposed upon the legislature of each state by its constitution, as interpreted by its courts. These monographs are called "uniformity structures" to make the point that the effective restraints upon legislative action are the product not alone of the wording of the "uniformity and equality clause," but also of its interpretation in the context of other constitutional provisions bearing upon the subject. Some of these monographs are quite good; collectively they paint with broad strokes the tremendous diversity in tradition and feeling about the most equitable method of distributing among the citizens the cost of government.

The writing of forty-eight such monographs is a monumental task. Professor Newhouse has made it even more monumental by attempting to show not only what the interpretation of the present provisions has been, but to trace changes in language and compare the present rules with those enunciated under previous constitutions. In the introduction he indicates that he spent two

¹ Witness copious quotations from Professor Newhouse in CONSTITUTIONAL MANDATES FOR UNIFORMITY OF TAXATION, Illinois Legislative Council Publication No. 134 (1959).

years and several summers on the total task. If he did not operate with a considerable staff, his time was carefully budgeted.

As a resident of Illinois I was particularly interested in the section on that state. It is a good article. No one can read it without a heightened appreciation of the problems which archaic notions of economics, phrased in terms of challenging inflexibility, have put at the feet of the Illinois courts. It will provide considerable grist for the reformer's mill next time we take up the state's favorite game—trying to re-write the revenue article.² What bothers me about it is that, given the conspicuous lack of success of past efforts, we of Illinois may have to live with the present article for some time to come. If so, I suggest that constructive efforts to reconcile ambiguities in favor of the power of the general assembly are consistent with the usual canons of constitutional construction, and should be applauded.

A case in point is Professor Newhouse's treatment of the holding in *Illinois Cent. Ry. v. County of Mc Lean*,³ and the cases which follow it,⁴ to the effect that the constitution does not prohibit classification for purposes of different treatment of the subjects and objects of taxation enumerated in the second phrase of sec. 5 of art. IX.⁵ The holding of the *County of Mc Lean* case is referred to by Professor Newhouse as "peculiar,"⁶ "novel,"⁷ and "loose language,"⁸ and its restatement in the *Porter* case⁹ is termed "unwarranted dictum."¹⁰ This is one of the loosest buckles on the strait jacket in which the constitution of 1870 has placed Illinois tax gatherers. I suggest that Professor Newhouse is unduly pristine in his insistence that the court is "unwarranted" in recognizing even those escape mechanisms which the words of the section provide.

Not all of the essays are as intensive in analysis or as extensive in coverage as that on Illinois. The piece on Virginia, for instance, is some four pages in length and devotes only a page and a half to the meaning of the uniformity and equality section. The author states that the Virginia provisions are relatively

² See list of such efforts in Lucas, *Nonproperty Taxes under the Illinois Constitution*, 25 U. CHI. L. REV. 63 (1957). An editorial note in NEWHOUSE (p. 118 n.5) marks the most recent failure.

³ 17 Ill. 291 (1855).

⁴ E.g., *People ex rel Prindable v. Union Elec. Power Co.*, 392 Ill. 271, 64 N.E.2d 534 (1946). See NEWHOUSE 149 n.86.

⁵ "[B]ut the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, innkeepers, grocery keepers, liquor dealers, toll bridges, ferries, insurance, telegraph or express interests or business, vendors of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates." ILL. CONST. art. ix, § 5.

⁶ P. 129 n.7.

⁷ P. 163.

⁸ P. 128 n.37.

⁹ *Porter v. Rockford, R.I. & St. L.R.R.*, 76 Ill. 561 (1875).

¹⁰ P. 129 n.7.

detailed, and guesses that for that reason there has been very little litigation under them. He cites a total of seven cases, three of which were decided under the provisions of an earlier constitution. This is a sampling of some seventy-five noted in the Virginia *Shepard's* as cases in which the 1902 provision is cited. He states flatly that the present constitution requires "universality" in the taxation of property, but that the previous constitution contained no such requirement. For this assertion he relies upon the inclusion in the former of the words, "unless otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local . . .,"¹¹ and upon three cases. Two of these cases, *Williamson v. Massey*¹² and *Atlantic and Danville Ry. v. Lyons*,¹³ were decided under the constitution of 1869, the third, *Woolfolk v. Driver*,¹⁴ under the present provisions. Upon the question of the limitation upon exemption under the present provisions there is not much to be said. The language is plain enough and certainly any act of the legislature characterized as an exemption apparently would violate the section. The result of the failure of the general assembly to include in the categories taxable by localities some of the classes of property segregated by the constitution for local taxation is, however, far from clear.¹⁵ Also it should be noted that before the date given as the cut-off point in Professor Newhouse's research the Virginia constitution was amended to permit counties, cities, and towns to exempt from taxation "household goods and personal effects."¹⁶

As to the constitution of 1869, the case which is cited as "holding" that "there is no rule of universality—exemptions were permissible,"¹⁷ is terribly weak on its facts.¹⁸ It involved a citizen who owed the Commonwealth \$7.10 in unpaid taxes and fees. In payment, he tendered to the Auditor of Public Accounts four past due interest coupons, each in the amount of \$1.50, de-

¹¹ The Virginia Constitution of 1869 art. x, § 3 read, "The legislature may exempt all property used exclusively for state, county, municipal, benevolent, charitable, educational and religious purposes."

¹² 74 Va. (33 Grat.) 237 (1880).

¹³ 101 Va. 1, 42 S.E. 932 (1902).

¹⁴ 186 Va. 174, 41 S.E.2d 463 (1947).

¹⁵ See, e.g., *Atlantic & Danville Ry. v. Lyons*, *supra* note 13. Professor Newhouse makes this point by a "cf." reference to the *Lyons* case (NEWHOUSE 544 n.5.). It loses its force, however, since he compares the *Lyons* case with the *Driver* case; the former was decided under the 1869 constitution and Professor Newhouse follows the citation with the statement that under that constitution there was no requirement of "universality." See also NEWHOUSE 99 n.18, 288, and 654 discussing "selection" as opposed to "exemption."

¹⁶ Ratified November 6, 1956.

¹⁷ P. 544 n.5.

¹⁸ Note that Professor Newhouse classifies Tennessee as a state requiring "universality" although exempting state bonds from property taxation. See NEWHOUSE 72, and *Foster v. Roberts*, 142 Tenn. 350, 219 S.W. 729 (1919). In the *Roberts* case the Tennessee court characterized the exemption as an "act of sovereignty," a view essentially the same as that taken in the opinion of Burks, J., in *Williamson v. Massey*. See note 19 *infra*.

tached from the bonds of the Commonwealth expressly exempted from taxation by the statutes providing for their issuance, together with \$1.12 in cash. The Auditor refused to accept the coupons without deducting from each ten cents in property tax. The court upheld a mandamus to require him to accept them without deducting the tax. Judge Anderson rendered a lengthy opinion upholding the unlimited power of the general assembly to exempt property from taxation, which apparently serves as the basis of Professor Newhouse's statement. Reasonable diligence would have disclosed that Judge Anderson was joined in his opinion by only one other judge of the five judge court (Christian, J.). Judge Burks concurred in the result on the ground that the power to exempt its own obligations from taxation "is incidental to the power to contract, adjust and provide for the payment of such obligations," adding, "I am not prepared, however, to say whether or not the power of exemption under the Constitution is without limitation, and extends to property *generally*, within the uncontrolled discretion of the legislature."¹⁹ Chief Justice Moncure was absent. Judge Staples dissented without opinion. Two years later, in *Danville v. Shelton*,²⁰ Judge Anderson repeated his views on the matter, this time stating that the constitution did not prohibit the town of Danville from exempting from taxation the capital of building and loan associations whose capital was applied exclusively to the construction of buildings located within the territorial limits of the town. The statement was *obiter* inasmuch as the ordinance was held invalid for want of required formalities in its passage. Judge Christian again joined him. Judge Burks again concurred in the result, this time without opinion. Chief Justice Moncure and Judge Staples were absent.²¹

Both of these opinions were expressly disclaimed by the court in *Whiting & Als. v. Town of West Point*.²² In the course of holding that a municipal corporation could not exempt property of a warehouse company keeping its principal office in the town, Judge Lewis, speaking for the court, said of the *Shelton* case, "Judge Burks concurred in the result merely, and in view of what he had previously said in *Williamson v. Massey*, the inference is irresistible that he did so because of some point or points in the case other than that relating to exemptions. Be that as it may, Judge Anderson's opinion was concurred in by Judge Christian only; and it need hardly be said that a case so

¹⁹ *Williamson v. Massey*, 74 Va. (33 Grat.) 237, 250 (1880). (Emphasis in the original.)

²⁰ 76 Va. 325 (1882).

²¹ In *Williamson v. Massey* the absence of Chief Justice Moncure is noted in the report of the case. In the report of the *Shelton* case no mention is made of absences. On the title page of the volume, however, it is stated that the Chief Justice sat in none of the cases reported in Volume 76. The absence of Judge Staples is nowhere mentioned. In *Whiting & Als. v. Town of West Point*, 88 Va. 905 (1892), the court observes that his absence is shown by the record, citing the Order Book. This was a cruel jape to play on the bar of the Commonwealth, perhaps, but something discernible in these days of Shepard.

²² 88 Va. 905 (1892).

disposed of is no authority for any case. It is not a 'precedent' under the rules of *stare decisis*."²³

In *Day v. Roberts*,²⁴ decided in 1903, but adjudicating an appeal from a decision of the lower court decided in 1901 under the constitution of 1869, the court held void a provision of the legislative charter of the town of Smithfield exempting property within the town from taxation by the county. This case is of particular interest in view of the fact that the facts are substantially identical to those of the *Driver* case,²⁵ cited by Professor Newhouse as establishing the requirement of "universality" under the constitution of 1902.

In addition to this strange documentation, the article contains at least one palpable misstatement of fact.²⁶ The author states that "while Virginia at one time had a comprehensive classified property tax, at the present time all tangibles are taxed by local rates without classification."²⁷ The "comprehensive" classified tax to which he alludes is described by Professor Leland as consisting of five classes: (1) real estate, (2) tangible personal property, (3) intangibles, (4) bank stock, and (5) rolling stock of steam railways. Within class (3), intangibles, there were six sub-classes.²⁸ As Professor Leland notes, the statutes of 1926 segregated real estate and tangible personal property for local taxation only. Why the tax is less "comprehensively" classified because these two classes are now subject to local rates is not apparent. As a matter of fact the result has been quite the antithesis. The Virginia code provides that tangible personal property may be locally classified and taxed at a rate different from that applied to real estate, and that, within the tangible personal property classification, merchants' capital may be separately assessed and taxed at a different rate, and, further, that farm machinery, farm tools, and farm live-stock may be taxed at a different rate so long as the rate applied to them is not

²³ *Id.* at 911.

²⁴ 101 Va. 248 (1903).

²⁵ *Woolfolk v. Driver*, 101 Va. 174, 41 S.E.2d 468 (1947). *Day v. Roberts* is one of the precedents relied upon in the *Driver* case; the court referred to the 1869 and 1902 provisions as "similar." It is also of interest that Professor Newhouse classifies Maine as a state without a requirement of "universality," but notes that the sort of territorial exemption attempted in the *Roberts* and *Driver* cases was held to violate the uniformity and equality provision. See NEWHOUSE 62 n.11, and discussion of *Dyar v. Farmington Village Corp.*, 70 Me. 515 (1878).

²⁶ This does not count what may be a typographical error. On p. 687 it is stated that in Virginia there are "no local taxes on personal property." Surely the author meant to say that there are no local taxes on intangibles. Tangible personal property is segregated for local taxation only.

²⁷ P. 544. The statement comes from LELAND, *THE CLASSIFIED PROPERTY TAX IN THE UNITED STATES* 228 (1927). Nowhere does Professor Leland suggest that the comprehensive nature of the classification has been in any way abated. He ends his description of the Virginia system with the observation that "the classification system in Virginia has become quite complex . . .," including a table showing the changes in classifications made by the Virginia Acts of 1926.

²⁸ LELAND, *op. cit. supra* note 27, at 436.

higher than that applied to other tangible personalty.²⁹ In 1954, the statute was amended to add another separable class (chiefly household chattels).³⁰

This sad neglect of the problems of the Old Dominion³¹ stems no doubt from a lack of thoroughness due to an initial decision that a detailed discussion would not add materially to the main point of the book. As such, it may be excusable, though to some extent it detracts from the point made about the necessity for careful individual scrutiny.³²

There are other examples of simple lack of care in citation. In the section on Idaho it is stated that *Achenbach v. Kincaid*³³ "upheld the motor vehicle registration tax and the provision therein which provided for the exemption from all other taxes of cars affected by the tax."³⁴ In the *Kincaid* case only the exemption feature was at issue³⁵ and the Idaho court expressly refused to rule on the validity of the tax.³⁶ In the section on Illinois the statement is made that "the Illinois Court has not ruled upon the validity of graduated rates under the uniformity within classes limitation found in the second clause of Art. IX, § 1."³⁷ A footnote follows with this observation: "However, in *Magoun v. Illinois Trust & Savings Bank*, 170 U.S. 283, 18 S. Ct. 594 (1897), the United

²⁹ VA. CODE § 58-851 (1950).

³⁰ VA. ACTS 1954, p. 465, adding the following sentence: "The governing body of any county, city or town may in its discretion classify household items set forth in § 58-829(9), (10), (11), and (12) separately from other tangible personal property and may fix the rate of levy thereon, but the rate shall not be higher than that imposed by such governing body upon other tangible personal property in such county, city or town." The items referred to are: household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigeration machinery, vacuum cleaners and all other household machinery, books, firearms, and weapons of all kinds; pianos, organs, victrolas, phonographs and records to be used therewith, and all other musical instruments of whatever kind, radio instruments and equipment; oil paintings, pictures, statuary, curios, articles of virtue and works of art; diamonds, cameos or other precious stones and all precious metals as ornaments or jewelry. Forgetting for a moment such important questions as whether or not this classification includes julep cups, one can hardly say that Virginia has renounced classification.

³¹ As a native and long time resident of the Commonwealth, naturally my local pride is wounded.

³² See, e.g., p. 3.

³³ 25 Idaho 768, 140 Pac. 529 (1914); see NEWHOUSE 382.

³⁴ P. 382 n.13.

³⁵ In the *Kincaid* case, the plaintiff sought a writ of mandate to compel the board of county commissioners and the county assessor to assess motor vehicles exempted under the act.

³⁶ *Achenbach v. Kincaid*, 25 Idaho 768, 778, 140 Pac. 529, 533 (1914). Emphasizing this refusal to rule on the validity of the tax is the concurring opinion of Judge Ailshie. Judge Ailshie takes the court to task on precisely this point. The tax was later upheld in *In re Kessler*, 26 Idaho 764, 146 Pac. 113 (1915), a habeas corpus case. If poor Kessler had only had the benefit of Professor Newhouse's counsel, he might have avoided the indignity of *durance vile*.

³⁷ P. 120.

States Supreme Court, in a leading case, held that the progressive graduated rates then in effect under the Illinois inheritance tax did not violate the equal protection clause of the United States Constitution."³⁸ The immediate preceding footnote had said that *Kochersperger v. Drake*³⁹ "held that the classification of beneficiaries into six classes according to relation to the deceased for purpose of applying a different proportional rate to the property devised to each was reasonable. . . ."⁴⁰ Of course the *Kochersperger* case involved the same statute before the United States Supreme Court in the *Magoun* case. As a matter of fact, *Drake v. Kochersperger* from the Illinois Supreme Court, *Sawyer v. Kochersperger*, begun in the County Court for Cook County and removed to the Circuit Court of the United States,⁴¹ and the *Magoun* case, originating in the Circuit Court of the United States, were argued together in the United States Supreme Court. Further, there were not "six classes based upon relation to the deceased and proportional within each class." There were two classes on that basis and unless the beneficiary fell in one of those, the tax was based upon the size of the inheritance, an ascending percentage rate being applied to a four class bracketed structure.⁴²

These instances of simple carelessness could be multiplied, and stand in sharp contrast to the punctilio to which Professor Newhouse holds the Illinois bench.⁴³ Their multiplication would make no useful point; it is of more importance to seek their cause.⁴⁴ This brings me to the third "book."

This "third face of Eve," so to speak, is an exercise in social science tech-

³⁸ P. 121 n.9.

³⁹ 167 Ill. 122, 47 N.E. 321 (1897).

⁴⁰ P. 120 n.9.

⁴¹ 170 U.S. 283, 287 (1903); see also *id.* at 303.

⁴² ILL. REV. STAT. ch. 120 (1895 ed.). The provision is quoted in the *Magoun* case at 284. After describing the first two classes, based upon closeness of relationship to the deceased, the statute continues: "In all other cases the rate shall be as follows: On each and every hundred dollars of the clear market value of all property and at the same rate for any less amount; on all estates of ten thousand dollars and less, three dollars; on all estates of over ten thousand dollars and not exceeding twenty thousand dollars, four dollars; on all estates over twenty thousand dollars and not exceeding fifty thousand dollars, five dollars; and on all estates over fifty thousand dollars, six dollars. . . ."

⁴³ *E.g.*, the scorn heaped upon Justice Scholfield's "unwarranted dictum" in *Porter v. Rockford, R.I. & St. L. R.R.*, 76 Ill. 561 (1875). See text at notes 6-10 *supra*.

⁴⁴ If I may take one parting shot without being branded a nit picker, I wonder how Professor Newhouse can classify Idaho as a state requiring absolute uniformity of effective rate without somewhere coming to grips with the sheep tax. See IDAHO CODE, § 25-131. See also *State v. Butterfield Livestock Co., Ltd.*, 17 Idaho 441, 451 (1909). In the *Butterfield Livestock Co.* case the validity of the sheep tax (an *ad valorem* levy for the use of the livestock sanitary fund, imposed at that time at a rate of three mills and collected as other taxes) was not at issue. The court held invalid a grazing fee applied to sheep from outside the state, but in passing observed that such sheep were subject to the sheep tax at the same rate applied to local sheep. The 1959 revision establishes a maximum rate of forty mills.

nique, an attempt to quantify the impact of uniformity and equality clauses. The method is a simple six step operation.⁴⁵ First, because the constitutional pattern in most states is rather complex, involving some general exhortation to equality, specific exceptions, a provision for exemptions, special treatment of the problem of delegation of the tax power to municipal corporations, and such, the "basic" uniformity clause is snatched baldly from its context. Second, the "basic" clauses are classified into nine "basic" types. Where Idaho turns up with two "basic" clauses, it is arbitrarily taken to contain only the more liberal of the two. Third, these nine "basic" types are classified into archetypes, "strict" and "liberal." Since the comparison is made upon the basis of language alone, they are called "strict literal" and "liberal literal." Fourth, from the individual studies of the interpretation of the provisions in each state, the effect of the constitutional limitation is measured by three objective criteria: (1) Is there a requirement that all property be taxed? This is called the requirement of "universality." (2) Does both the tax rate per unit of assessed value and the percentage of assessed value to "true" value have to be equal? This requirement is called "absolute equality of effective rate." (3) Must all property taxes be levied *ad valorem*? Fifth, on the basis of whether a state scores on these questions a yes-yes-yes, a no-yes-yes, a no-yes-no, a yes-no-yes, or a no-no-no,⁴⁶ it is classified as a "strict effective" or "liberal effective" state. Finally, the states are classified into four "sectors," "strict literal-strict effective," "strict literal-liberal effective," "liberal literal-strict effective," and "liberal literal-liberal effective." The results of these calculations are brought together in a chart on p. 678 which the reader will have to see to believe. The headings are all numbers and letters, explained in footnotes, and with the exception of the twelve states which are said to have no limitations at all (the no-no-noes), over half the states are footnoted to show that other provisions of the constitution really make the result different. Louisiana is left out altogether as just too complicated. The footnotes deal for the most part with the question of "absolute equality of effective rate." Had all the states with clauses making inroads upon the requirement of universality of imposition by special provisions dealing with exemptions been graced with a footnote, the footnotes might have reached 100%.

The conclusion to which the reviewer is led is that *Constitutional Uniformity and Equality in State Taxation* is in fact three "books" which might have been two much better ones. It is dragged down by the felt necessity to add buns and tennis balls. Be it said for the author, he knows better. Early in the book he

⁴⁵ To test your aptitude for social science measurement, keep score on the following basis: If you can divine the last five steps from the first—10 points; the last four from the first two—8 points; the last three from the first three—6 points; the last two from the first four—4 points; the last one from the first five—two points. If you have to read the last one, give up and go back to teaching law.

⁴⁶ If you recognize that I left out yes-no-no and no-no-yes, add five points to your score.

states that really buns and tennis balls cannot be added. But then add them he does, *ruat caelum*. This exercise in addition places Professor Newhouse under two considerable handicaps.

The first is the necessity for complete coverage. When one asserts that sixteen states do thus and so, and five do the opposite, a natural inquiry is, "What happened to the rest of them?" The body of material involved in complete coverage is, however, nothing less than enormous. Over twelve hundred cases are cited, and undoubtedly these are a sampling of several thousand. To read them in detail and discuss them critically is a task of tremendous proportions. When one adds the considerable body of statute law, an acquaintance with which is necessary to the understanding of the interpretation of the constitutions, and adds to that the historical constitutional materials, the total was simply beyond the ability of Professor Newhouse, and whatever staff he had, to cover with care in the time he found it possible to devote to the project. This results in too many instances of spotty research, and in too many statements of doubtful accuracy.

The second handicap is the necessity to find some common denominator for the creation of units that have at least surface plausibility—to create "tennis-buns" from his buns and his tennis balls. His "*ad valorem* requirement," his "requirement of absolute equality of effective rate," and his "requirement of universality" have to be translated into simple yeses and noes. For the most part comparison is postponed until the process has washed out all the niceties of phrasing. In my opinion, the comparisons that result are of little validity and of little interest. What is worse, the process of making them leads the author to ignore comparisons that might contribute more to an understanding of problems of construction and interpretation. In his comparative analysis of the requirement of "universality," for instance, he sums up the comparison of states with "Type II"⁴⁷ clauses by saying that "again, a diversity of results is found. . . . There is no requirement of universality in Alabama, but the opposite holds true in California, Illinois, and Nebraska."⁴⁸ Nowhere is a comparison made of the logical and grammatical structure of the four constitutions. The fact that the Illinois Constitution begins with the phrase, "The general assembly shall provide such revenues as shall be needful by levying a tax, by valuation,"⁴⁹ and section 3 of the same article is framed as a delegation of power to the general assembly ("The property of the state [followed by an enumeration of other classes]. . . . may be exempted from taxation . . .") has led the Illinois courts to interpret the intention of the constitution as a limitation upon the power of the general assembly, followed by an enumeration of

⁴⁷ "TYPE II: Property shall be taxed in proportion to its value." P. 9.

⁴⁸ P. 651.

⁴⁹ ILL. CONST. art. IX, § 1.

exceptions to the limitation, applying the rule *expressio unius exclusio alterius* to the enumeration.⁵⁰ In Alabama, on the other hand, the general limitation begins: "All taxes levied on property . . .,"⁵¹ and the exemptions are enumerated in an entirely different article.⁵² Furthermore, the exemption provision is mandatory. No necessary inference flows from the mandatory exemption of some classes of property to the effect that the legislature may not make other classes exempt by statute.

In the nonproperty tax area, where not even units with surface plausibility can be designed, the book is a better book. The discussion of the history of the income tax under the state constitutions is a genuinely good one. This leads me to believe that the shortcomings of *Constitutional Uniformity and Equality in State Taxation* are principally the product of measurement-mindedness in legal research. I hasten to add that in spite of these shortcomings, the book has made a significant contribution.

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⁵⁰ See, e.g., *People ex rel. McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde Ungeaenderter Augsburgischer Confession*, 249 Ill. 132, 135, 94 N.E. 162, 164 (1911).

⁵¹ ALA. CONST. art. XI, § 211.

⁵² *Id.* art. IV, § 91.

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Professional Negligence. Edited by THOMAS G. ROADY, JR., and WILLIAM R. ANDERSON. Nashville: Vanderbilt University Press, 1960. Pp. 332. \$10.00.

The term "professional" is used in the title of the book in a broad sense and includes not only doctors, architects, engineers, teachers, and attorneys, but also pharmacists, abstracters, funeral directors, insurance agents and brokers, artisans and tradesmen. The book also includes articles on related subjects such as "Insurance Against Medical Professional Liability" and "Modern Techniques in the Preparation and Trial of a Medical Malpractice Suit." The styles of the writers usually are clear, their attitudes objective, and their reviews of the cases fair and comprehensive.

Each chapter spells out with precision the duty of certain professional groups to the public and to their clients or patients. Each chapter contains material so important to the members of each professional group under consideration, that the applicable article in this book ought to be prescribed as "must" reading for students preparing for a career in any of the professions and trades treated, as well as of practitioners in these professional groups. This material informs the prospective practitioner of his obligation to be well in-