possible rewards perceived. That this applies to much that is written above is clear. As it concerns delinquency, the learning is of an idea, the idea of delinquency. This is important because, like every other volitional activity, the delinquent act necessarily is preceded by some sort of mental representation. Except for very rare, almost reflex impulsive outbreaks of misconduct, the psyche—the human mind—determines behavior. Indeed, it is doubtful whether even sudden displays of physical violence or of the sexual urge ever occur without some prior representation or idea in the mental life. But, however that may be, the ordinary delinquent act is preceded by some idea of it; and that idea must have been learned from some source.

Here is a lesson that we in our culture have not learned well enough, perhaps because no single stimulus has been strong enough to have widespread effect and because there is a large measure of indifference to the facts. This was not so with the racketeer who gave funds for a recreation project in his old neighborhood in Chicago in order to help prevent the boys living there from growing up to be what he had become. He was not indifferent. He had learned.

I am not so pessimistic as Sheldon; but I see plainly that unless society cleans house in order to prevent so many ideas of delinquency from taking hold of our youngsters, we are doomed to have no reduction in delinquency and crime.

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For nearly sixty years after Langdell, at Harvard, revolutionized law school pedagogy on principles of pragmatism, law faculties generally adhered exclusively to the case method of instructing several generations of aspiring lawyers. Casebook after casebook rolled off the presses, most of them compiled and edited by professors whose legal experience outside ivied walls had been minimal. Such books, as a rule, merely contained reprints (in whole or in part) of state and federal appellate court opinions. Editorial comment was in most cases nonexistent; if it did appear, it was extremely limited in character and usually not illuminating. Only the barest of nonlegal materials was ever mentioned or included. Whatever casebooks on taxation appeared were of the same Spartan mold and pattern.

Prior to the 1930's, any attack on the instructional soundness of the case

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method was too often considered heretical by faithful followers and adherents of the Langdell method. Twenty or so years ago, however, acute pedagogues realized that in the edifice which Langdell had built, remarkable and grand though it was, there were many serious flaws. Although genius it was that initiated the break with the uninspired textual instruction of law schools during the first eighty years of the Nineteenth Century, it was folly to rely blindly and exclusively on the literature of court opinions for an understanding of law as a daily living force in society. During the past two decades that realization has grown apace, so that today, fortunately, the better law schools are increasing their use of casebooks bearing only superficial resemblance to the casebooks in vogue, for example, when this reviewer sat at the feet of Mechem, Hall, Freund, Bigelow and Hinton. The two casebooks of Surrey and Warren are in the best style of the "new look" in law school teaching.

Another fascinating phenomenon in recent law school history concerns the role of the study of taxation. A quarter of a century ago that subject was taught at the Law School of the University of Chicago only once every two years—and then only for less than forty hours during one quarter. Its subject matter was restricted almost exclusively to principles of constitutional authority and jurisdiction and therefore was not much of an addition to the course on constitutional law. Problems of legislation and administration were considered either irrelevant or unimportant. Other well known law schools were no more attentive to the teaching of taxation in their curriculum. How naive such an approach really was can be seen upon even a cursory examination of the casebooks here under review!

Indifference to the teaching of taxation was not the deliberate ex parte design of the law schools. Taxes, as a rule, did not mean much twenty or more years ago to the average citizen or business. Income, estate and gift taxes were the concern of comparatively few. Twenty years ago only slightly more than two million individuals paid income taxes to the Federal Government; today, over forty million are counted among those liable for income taxes in one form or another. Increased governmental needs and social pressures that must be harnessed make taxation more than another facet of academic study. Holmes' observation that taxes are the price one pays for civilization was not only poetical in expression but profound in its implications. It is not surprising, therefore, that law schools now vie with each other in the teaching of taxation, placing special emphasis on federal income, estate and gift taxation. New and interesting casebooks are appearing from time to time to reflect the growing importance of the subject of taxation in the law school curriculum. The two casebooks here reviewed are among the latest exhibits of that aspect of pedagogical history.

Professors Surrey and Warren come to their task with excellent qualifications. Both have had considerable governmental experience in the administration of federal taxes, each having held high official posts; both also have worked behind
the scenes in the formulation of federal tax policy in one aspect or another; at least one of them has had not inconsiderable experience in the private practice of law. The background of the authors is reflected in the two casebooks. Surrey and Warren are keenly aware of the need and importance of opening windows to permit the law student to look out on broad fields of legislative and administrative problems. Both books are thus replete with considerable discussion of such problems and contain liberal amounts of nonlegal materials. The student who utilizes either or both of these casebooks will definitely realize that court opinions are but only a small part of the stuff of which law is made.

The structural setup of the income tax casebook is imposing. In the first 70 pages the authors present a brief historical review of the federal income tax system, touch upon the current fiscal aspects of the income tax, describe legislative, administrative and judicial processes, and explain in a brief survey income tax procedure before the Bureau of Internal Revenue and the Tax Court of the United States. Interestingly enough, even the role of the tax adviser is not ignored. For nearly 300 pages the tantalizing problems of gross income, deductions and credits are handled with a wealth of material. Accounting aspects are analyzed with acuteness in about 150 pages, as are the intricacies of gains and losses from disposition of property. Income taxation of the family entente takes up almost 200 pages, whereas partnership problems are covered in about one quarter of that space. The balance of the book, over 300 pages, is devoted to the variegated complexities of corporations and stockholders.

Of 137 court opinions reprinted in whole or in part, 59 are of the Supreme Court of the United States, 39 are of the Circuit Courts of Appeals, 34 are of the Tax Court and Board of Tax Appeals and the remaining are from the District Court and the Court of Claims. Most of the decisions were handed down since 1940. In addition, however, to these reported opinions are references to literally hundreds of other decisions of various courts.

The foregoing statistical summary is designed to indicate the emphasis and symmetry of the casebook on income taxation. There is so much material in addition to the reprinted opinions that, as the authors themselves are aware, the book could well be used for advanced seminar work as well as by neophytes or the uninitiate. The teacher of a beginning class in income taxation will, therefore, be put on his mettle to winnow out those portions of the book which might tend to confuse rather than illumine the mind of the newcomer to the field. Although the task may not be too easy, it is not by any means insuperable. In fact, experimentation in selection is envisaged by the authors; to this reviewer, at least, it would be a stimulating challenge.

So much has been and is still being spewed forth in income tax materials that to carp about the authors' choice of cases for reprinting or arrangement of subject matter would be criticism of a wholly unconstructive character. Within the covers of the book there is more than an ample supply of pay dirt for the person willing to dig. It will take a wise guide, however, to point out what are
basic principles and what are temporal frills. Congress can and often does by the addition or deletion of a few words make obsolete large sectors of tax learning.

The casebook on federal estate and gift taxation is an interesting experiment. In the first place, by devoting an entire casebook to subjects heretofore generally thought not deserving of such special attention, the authors have broken with tradition. True, the average citizen is still possessed of too few worldly goods to be concerned about gift taxes or estate taxes. Nevertheless, more and more persons are becoming fortunate enough to have to worry about such exactions. Secondly, the authors' handling of estate and gift taxes is functional or integrated. Instead of dealing with each tax consecutively, Warren and Surrey combine the two taxes in analyses of such subjects as transfers in satisfaction of marital rights, incomplete transfers, joint interests, insurance proceeds, powers of appointment, valuation, determination of net estate and net gifts. Thirdly, a fifth of the book is devoted to estate planning desiderata and to proposals for new types of transfer taxes. Only 49 court opinions are reprinted: 18 Supreme Court, 18 Circuit Courts of Appeals, and 13 Tax Court and Board of Tax Appeals. There are, however, considerable editorial addenda, copious references to numerous other decisions and many extensive excerpts from nonlegal sources.

Here too, a reviewer should resist the easy temptation to criticize the authors for not putting together another type of casebook. One may be permitted, however, to venture the thought that whether law students will benefit from the integrated treatment of estate and gift taxes remains to be seen. To be open-minded in this regard is the least that can be expected from a reviewer; but, for the moment, one has gnawing doubts about the unequivocal success of the experiment. If the integrated method is logically sound, then inter vivos transfers, for example, should be comprehensively analyzed from all angles, including income tax aspects, as in real life. Yet such aspects are only casually referred to in connection with integration of the estate and gift taxes. And rightly so, because there is a limit to how far the uninformed can be safely given complex concepts without loss of clarity.

This casebook, unlike its companion, contains substantially more material on choice of fiscal and social policies underlying imposition of taxes. Perhaps this feature will cause many of the orthodox to raise their professorial eyebrows skeptically. Warren and Surrey are, however, to be commended for recognizing that a full and complete understanding of the vagaries of tax law presupposes more than mere adeptness or skill in statutory semantics. Nevertheless, technical proficiency is, or at least should be, the primary aim at the law school level. Sensitive appreciation of the complex human problems involved in the imposition of any tax can come only with the accumulation of experience beyond law school days. The materials on policy considerations must thus, perforce, be considered as provocative tidbits, but by no means descriptive of all the vast
problems bedevilling the wise legislator, conscientious administrator, and learned judge.

Two further observations are pertinent before this review is brought to a close. Of the two casebooks, that on estate and gift taxation may be the more vulnerable to statutory changes. Thus, for example, transfers in contemplation of death have now, by the Revenue Act of 1950, become virtually unimportant breeding sources of litigation; transfers more than three years before death cannot now be treated as having been made in contemplation of death, irrespective of motive. Furthermore, the Powers of Appointment Act of 1951 has brought forth significant changes in the treatment of powers of appointment, making obsolete much of the material in the casebook. Perhaps only a loose-leaf casebook would avoid the perpetuation of material which is of historical interest only. Cognizant of the havoc wrought by legislative changes, the authors expect that instructors will keep the students informed of new developments. Students however, can soak up only a limited amount of information.

There is an increasing awareness among older lawyers who have been specializing in taxation that many law school graduates rush into such specialty without previous experience in general law practice. That this is an age of specialization is a boringly trite observation, but return to the days when there were no or but few specialists has long passed beyond the realm of probability. Law schools would help materially to make better tax lawyers if they impressed on their graduates that sound tax knowledge means sound legal understanding generally.

We must avoid thinking of tax cases as unique accidents in closed chambers. The tempo of evolution in tax doctrine and jurisprudence, the rate of change from year to year, is naturally much faster than, for example, in real property law or corporate law, but they are all part of the same mechanism; just as the series of wheels within a clock may move at very different rates of speed, but all mesh together to tell us the time. If we want to know the legal time, it will not do to look only at the faster-moving second hand.

In their casebooks, Professors Surrey and Warren have given more than mere intimation of the need for knowing how to read the legal clock properly. Future editions of these books will undoubtedly improve what are already significant contributions to law school teaching.

Leo A. Diamond*