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Volume 64  
Issue 2 *Dickinson Law Review - Volume 64,*  
*1959-1960*

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1-1-1960

## Book Reviews

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### Recommended Citation

*Book Reviews*, 64 DICK. L. REV. 186 (1960).

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## BOOK REVIEWS

THE FEDERAL ESTATE AND GIFT TAXES—A GUIDE TO THE LAW, by Stephens & Marr. The Tax Club Press, 1959, 399 pages. Price: \$9.00.

James Joyce labored many years to produce his climactical works, *Ulysses* and *Finnegan's Wake*. Then, in order for these volumes to be intelligible to their readers, commentators had to produce volumes of explanation, so-called "keys." While we would be rash to call the Internal Revenue Code of 1954 the culmination of the Federal tax system, it is the result of many years of development. After the politicians, lawyers, accountants and lobbyists produced it, intelligibility demanded either specialized training or something like the Joycean "keys." Treatises like Mertens' multi-volume set offer extended explanations, analysis and citations,<sup>1</sup> but the ordinary practitioner will neither need nor want that. The brief and concise supplementary guides which accompany the Commerce Clearing House and Prentice-Hall services<sup>2</sup> are, on the other hand, frequently rudimentary and are intended to be little more than guides to the services themselves and rephrasings of the statute. A "hornbook" of Federal taxation is many years in the future, if ever, depending on the eventuality of the full maturation of the system.

The typical practitioner is not a tax expert. On the one hand it has been only in relatively recent years that taxation has found its way into law school training, and on the other most lawyers haven't had the opportunity for the wide experience which leads to expertise. Nonetheless, it is becoming increasingly true that capability in handling tax matters is an essential element in the craft of successful "lawyering." What the practitioner needs is a ready means of acquainting himself with the fundamentals of the law of federal taxation. There have been several efforts at satisfying this need, outstanding among which are the wholly admirable pamphlets published by the Practising Law Institute,<sup>3</sup> which every lawyer would be well advised to have, even if taxation is not a large element of his practice. They are readable, concise, well organized, accurate, authoritative and inexpensive.

Shortly after the enactment of the 1954 recodification, The Tax Club Press issued the third edition of *The Federal Income Tax, A Guide to the Law by*

<sup>1</sup> MERTENS, FEDERAL INCOME TAXATION (Rev. ed., 1959).

<sup>2</sup> E.g., CCH, THE UNITED STATES MASTER TAX GUIDE; CCH, FED. EST. & GIFT TAXES EXPLAINED; P-H FED. TAX HANDBOOK; P-H INT. REV. CODE, 1954, Official Explanation.

<sup>3</sup> There are 12 volumes in the series, FUNDAMENTALS OF FED. TAXATION, and an attempt is made to keep them current by revision and republication.

Stanley and Kilcullen, former editions having been rendered obsolete by extensive revisions of the 1939 Code (notably in the numbering of sections by the new act). On the whole it is a satisfactory piece of work, having several of the attributes of the pamphlet series mentioned. It deals serially, one by one, with the income tax sections of the code having general applicability, attempts to state the meaning of the sections, relates the sections one to another, and cites the leading authorities to some extent. There are, however, several criticisms which have to be made. The book came out too soon after the statute to reflect more than a few of the regulations then being promulgated; the user might find that the problem he is interested in was regarded by the authors as too technical for inclusion in the discussion; some of the explanations are not as clear as they might be; and in several places there is an imbalance because the most difficult problems are not always given the most space. Still, several of the criticisms have been rectified by the subsequent pocket parts issued by the publishers, and altogether it is the best single volume available. The way things move in taxation it is conceivable that a fourth edition will soon be necessary, lest the pocket part outgrow its pocket. If the hearings of the House Ways and Means Committee going on as of this writing bear any fruit, it is conceivable, though hardly pleasant to think about, that we may see an Internal Revenue Code of 1960—and thus another edition of Stanley and Kilcullen.

Since the publication of *The Federal Income Tax*, the Tax Club Press moved its headquarters from Manhattan to Tucson, from where it has issued *The Federal Estate and Gift Taxes, A Guide to the Law*, by Professor Richard B. Stephens of the University of Florida and Thomas L. Marr of the Florida Bar. Organized on the same principles, it is several things that Stanley and Kilcullen isn't. Mainly, it is longer and more detailed. The income tax book covers several hundred sections in 364 pages. 399 pages are needed to explain the less than 60 sections relating to estate and gift taxation. There are far more cases cited, and the authors had the advantage of more complete regulations. Far greater attention is given to the explanation of technical terminology, which is the bane of expert and non-expert alike. Stanley and Kilcullen is almost devoid of examples; this book has a good many. The authors are at pains to examine the sections critically, too. More than being a mere guide, *The Federal Estate and Gift Taxes* has several of the earmarks of a treatise. Just as one can criticize Stanley and Kilcullen for saying too little at times, as easily one gets the impression that Stephens and Marr say too much. With a limited amount of time and a great deal of stick-to-itiveness *The Federal Income Tax* can be read *in toto* as a short home course in the subject, but *The Federal Estate and Gift Taxes* contains rather more, even, than is ordinarily contained in a regular law school course.

Perhaps the authors lost sight to some extent of their own aims, for they have certainly gone beyond their announced purpose of providing "a firm basic understanding" of the statute. What they promise is a primer. They say it is not a how to do it book, not an estate planner's handbook, but one devoted to the fundamentals. But, while they have not produced the usual handbook for planning, neither have they produced a book the lawyer can easily use to inform himself generally of what he is about in estate and gift taxes. This book is heavy going, even though it is a work of craftsmanship.

There may, however, be a good reason for what the authors have done. True, the estate and gift tax statute is brief, its sections are on the whole better drafted, better organized and more easily understood than in the case of the income tax. But estate and gift problems, or at least estate problems, of the more difficult sort are coming across the lawyer's desk with increasing frequency. With general prosperity and inflation without a proportionate rise in the minimum taxable estate, more and more clients are concerned either with effective planning in advance or bad planning in retrospect. The only reasons for understanding the code fall under these two heads. Planning cannot be separated from other aspects of learning in this body of law. While the authors have not provided a handy do-it-yourself course of instruction, *The Federal Estate and Gift Taxes* is a useful complement to the Code itself. It is accurate, intelligent and important for all practitioners' libraries.

GEORGE M. JOSEPH.\*

PRACTICE AND THEORY OF PROBATION AND PAROLE, by David Dressler. Columbia University Press, 1959, 257 pages. Price: \$5.00.

After 20 years in the correction field in positions ranging from Parole Officer to Executive Director of the New York State Division of Parole, David Dressler is uniquely qualified to write about the practice and theory of probation and parole.

The work reflects the author's deep understanding of criminal behavior, his practical approach to correction, and his understanding of society's reluctance to give the advanced thinkers among sociologists and criminologists free rein to practice their theories.

Though his work is remarkably free of their jargon, Dr. Dressler is enthusiastic about the contribution to rehabilitation that has been made by psychologists, psychiatrists and social workers. From his present post as an Associate

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Professor at Long Beach State College in California and a first hand acquaintance with the forward looking adult and youth authorities in that state, comes his most novel proposal.

Reasoning that because even the best run of the most advanced penal institutions represent an abnormal place in which the inmate is regulated in his every act and movement, is deprived of family, sex, job and personal liberty, Dressler suggests that we dust off the old penal colony idea and see if it could not be utilized to turn back to society more normal men and women.

"Hometown," the Dressler Utopia for the disenfranchised, would be a hundred square miles of territory with both rural and urban elements to provide the convicted offender with a setting for family, home and job. At first blush such a community within a state sounds fantastic but then it is really not so different from Oak Ridge, Tennessee, or Hanford, Washington, the cities built, staffed and operated by the federal government to promote the development of the atomic bomb. The proposal is worth considering, the cost would not be prohibitive, and selection could determine the offenders ready for such an experiment, but is society ready?

JAMES J. MCARDLE.\*

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