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Review of “Cases on Taxation,” By Roswell Magill and John Maguire

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CASES ON TAXATION. By Roswell Magill and John MacArthur Maguire. Chicago: The Foundation Press, Inc., 1936. Pp. xxviii, 1034.

This book embraces the whole field of taxation, but quite properly emphasizes income and inheritance taxes. As explained in the preface, there has been a slight shift toward federal cases and away from state cases in the subject of inheritance taxation due to the fact that it now appears less likely than formerly that the federal government would gradually yield this portion of the field of taxation to the states.

The present edition contains a number of changes from the first edition, most of which will be recognized as improvements. In general, the authors have abandoned the practice of merely raising a question in a note without indicating the answer. The former practice had been criticized by this reviewer and others. In most instances, these notes, although denominated "Problems," now indicate the decision of the court in the case referred to.

The authors have succeeded remarkably well in noting significant cases, both state and federal, which have been decided since the last edition was printed. These have been either presented in the text or referred to in the notes as their importance warranted.

Members of the bar, as well as teachers, will be interested in the opinion of the authors that the jurisdiction to tax for purposes of inheritance taxation may not be identical with jurisdiction for purposes of property taxation. As to this the authors refer to the rearrangement of the material on jurisdiction and then state:

"Our compromise of course indicates a belief that recent authoritative decisions have broken down the old notion that death taxes measured by the value of transmitted personality were freer from constitutional limitation than property taxes aimed at the same personality. But we must guard against the implication that such decisions have produced an exact parallelism of jurisdictional formulae with respect to the two types of taxes. While that may be the outcome in the long run, the demonstration is still incomplete. It is even conceivable that death taxes, in the light of modern constitutional pronouncements have a somewhat more restricted jurisdictional ambit than property taxes."¹

One change was noted which may be of doubtful value. In the treatment of the case of *Central of Georgia Railway Company v. Wright*,² the statement of facts in the official report of the case was deleted as inadequate and a lengthy statement of facts was supplied, obtained from the records and briefs in the case. The revised treatment seems to obscure rather than illuminate the decision of the court. While casebooks are not ordinarily of value to practicing lawyers, this one may well prove an exception, for it contains a very comprehensive collection of the cases which should be familiar to a tax lawyer.

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1. P. viii citing *State v. First Bank Stock Corporation*, 267 N. W. 519 (Minn., 1936).

2. 207 U. S. 127, 28 S. Ct. 47, casebook p. 40.

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