BOOK REVIEWS


If the law of Federal taxation were less ephemeral, this book with the two volumes it supplements would likely take its place with Williston, Wigmore and other classic legal treatises. But the book itself is visible proof that it will not, despite the typical excellence and thoroughness of the scholarship and the lucid and attractive literary style which is characteristic of even its most involved discussions. Published no more than five years after the original two volumes, it has taken Mr. Paul a third of length equal to either of the first two to catch up, and still he finds himself explaining in the preface that "the final preparation of this volume was not able to keep pace with the rapid turnover of case law."

For the present, however, this supplement, added to the original volumes, will provide the most complete treatment extant on a number of phases of the estate and gift taxes. And on phases newly introduced by the ambitious Revenue Act of 1942 the supplement has an independent and extremely useful existence of its own. Among the old subjects, for example, contemplation of death is brought as completely to date as possible, with copious additions to old footnotes and ample new text discussion reappraising "several seemingly entrenched notions" in the light of First Trust & Deposit Company v. Shaughnessy and City Bank Farmers Trust Company v. McGowan. Too bad he could not have had available also the Supreme Court's recent decision in Trust Company of Georgia v. Allen for a discussion of whether the motive of estate tax avoidance makes a res ipsa case of contemplation of death.

May v. Heiner and the Tax Court's back flip in Estate of Mary H. Hughes are thoroughly ventilated, together with the whole problem of whether the Joint Resolution of 1931 ought to have retroactive effect, with the author concluding that the Supreme Court should "let the chips fall where they may, leaving it to others, who enjoy the proper discretion, to fashion relief in terms of policy and not a distorted reading of legislation if relief is deemed desirable." When he comes to a discussion of the epochal possibility of reverter problem which followed in the aftermath of Helvering v. Hallock he really bears down on May v. Heiner and suggests that Fidelity-Philadelphia Trust Company v. Rothensies, involving...

1. Member, New York Bar.
2. Page 97.
7. 44 B. T. A. 1196 (1941), overruled in Estate of Edward E. Bradley, 1 T. C. 518 (1943).
8. Page 144 et seq.
9. Page 154. Apparently Mr. Paul thinks Congress can botch things pretty badly too when it legislates relief from decisions of the Supreme Court. See his critical comment at page 732 et seq. on Section 502 of the Revenue Act of 1943, whereby Congress sought to give taxpayers an escape from Estate of Sanford v. Commissioner, 308 U. S. 39 (1939).
10. Pages 170 to 209.
a life estate retained by the settlor-decedent in 1928, "is a poorly disguised rejection of May v. Heiner."\(^{13}\)

His whole treatment of the reverter problem is illuminating, if not flawless. After a tireless analysis of the myriad cases decided in the name of Hallock, he criticizes the Bureau for its campaign against "reverters as such"\(^ {14}\) and says that the Hallock case applies not because of the reverter alone, but because survival of the grantor is essential to the effectiveness of the transfer. Once that contingency is introduced, "the exceedingly weak possibility of regaining the property should be immaterial."\(^ {15}\) To the extent that Mr. Paul's proposition holds that not all reverters call for tax it makes good sense. But to the extent that it reaches all reverters upon the contingency of non-survival of the grantor it can only be interpreted as an aberration in one who believes that "practical economics should not begin and end with the income tax."\(^ {16}\)

It is interesting to note how close on the heels of this book the Treasury released T. D. 5512\(^ {17}\) amending the regulations on reverters and how closely it conforms with Mr. Paul's views. Throughout the volume the reader has an awareness that the author has a pretty sensitive finger on the Treasury pulse, or vice versa, and it is known, to be sure, that much of the course which the innovations of the 1942 Act have taken has been set by him during the time when it was a matter of his official concern. Notable among them is the new pattern for powers of appointment which he treats exhaustively and excellently,\(^ {18}\) referring especially to the question of the effectiveness of the donee's partial release of a power to bring it within the exempt category\(^ {19}\)--a subject on which he once had occasion to express himself officially.\(^ {20}\) To illustrate the versatility of his work (not to mention the great importance of his footnotes) he schedules the several states who have statutes respecting the release of powers\(^ {21}\) and turns in a respectable analysis of the common law situations.\(^ {22}\)

In the field of life insurance Mr. Paul brings the old law up to date, taking best advantage all the while of the opportunity to lay the groundwork for a treatment of the 1942 amendments which he carries through leaving no stone unturned. It would have been helpful to an understanding of Section 811 (g) of the Code as amended if he had speculated upon what reason of policy makes a reversionary interest an incident of ownership for the purpose of applying the premium payment test to payments made before January 10, 1941 when it is not an incident of ownership for any other purpose.\(^ {23}\)

Considerable space\(^ {24}\) and great energy are devoted to the most penetrating study of the Dobson\(^ {25}\) case that has yet appeared in legal literature. The Supreme Court is vigorously criticized; its inconsistencies are laid embarrassingly bare; it is accused of a "conspiracy in restraint of under-

\(^ {13}\) Page 190.
\(^ {14}\) Page 198.
\(^ {15}\) Page 198.
\(^ {16}\) Page 196.
\(^ {18}\) Pages 246 to 315.
\(^ {19}\) Page 310 et seq.
\(^ {21}\) Page 307, note 28. To the author's list might now be added Alabama, California, Colorado, Florida and Michigan.
\(^ {22}\) Pages 304 to 315.
\(^ {23}\) This distinction is mentioned but not justified at page 371.
\(^ {24}\) Pages 492 to 605.
\(^ {25}\) Dobson v. Commissioner, 320 U. S. 489 (1943).
standing” (and the charges are so fully documented as to convince beyond reasonable doubt); but then it is granted absolution on the strength of *Bingham Trust v. Commissioner* 28 which, it is thought, “plainly revealed that the *Dobson* case is on the way to oblivion.” 27 Would the author still think so, had he the benefit of the recent decisions in *Kelley Co. v. Commissioner* 21 and *Talbot Mills v. Commissioner* 29 where the Supreme Court reversed one Circuit Court of Appeals and affirmed another in order to put in statu quo conflicting Tax Court decisions on parallel facts presenting the question whether so-called debentures were not actually preferred stock?

There are too many other valuable passages in this work to call them to specific attention in a limited review. A few items of importance may have been slighted. A fuller discussion of the complexities of the deduction for previously taxed property would be welcomed, for example, as would also the author’s present views on the correctness, disputed by Professor Griswold, 30 of the line of cases holding that the Government has the practical equivalent of a four years statute of limitations for the assessment of gift tax in all cases because of the transferee provisions of Section 1025 of the Code. 31 Also helpful would be a fuller discussion of the estate tax problems in cases like *McClenen v. Commissioner*, 32 and some discussion of the gift tax questions in family partnerships not recognized for income tax purposes.

On the mechanical side this supplement leaves a few things to be desired. Much of the material consists of additions to notes and text existing in the original volumes. It would serve convenience and be well worth the price to have had a second edition rather than a supplement. Since there is no promise of pocket parts to the supplement, and no kangaroo pouch in the cover to contain such annual offspring, perhaps upon the next remodelling of this treatise we may expect a revised edition. In any form, however, the supplement is a treasury of source material covering practically every relevant point in more than 2000 cases and 200 articles from legal periodicals. We can only wonder when Mr. Paul found time to do it all.

*H. Ober Hess.*


Mr. Wiprud, who until recently was Assistant to the Attorney General in the Anti-Trust Division of the Department of Justice, participated in the investigation of “Monopoly in Transportation” authorized by the then

27. Page 494.
30. Note (1944) 57 Harv. L. Rev. 906.
32. 131 F. (2d) 165 (C. C. A. 1st, 1942).
† Member, Pennsylvania Bar.

1. Former Special Assistant to the Attorney-General of the United States.
2. Member, District of Columbia Bar.
Attorney General Francis Biddle. Thurman Arnold, formerly Assistant Attorney General, in an introduction to Mr. Wiprud's book states its thesis. He charges that flagrant abuses of the monopoly power of railroads have "produced high and discriminatory rates, restricted services, and suppressed technological improvements" in transportation. He alleges that there is "a transportation cartel fixing rates, dividing territory, and retarding the growth of industry" by private arrangements acquiesced in by Government agencies, and that the Interstate Commerce Commission "hovered over" this policy. This is the substance of the charges made repeatedly by spokesmen of the Department of Justice.

Mr. Wiprud takes up the defense of this thesis with vigor. He charges that banker domination is the underlying cause of the crisis in transportation and that the "ruthless exploitations by the financial houses have touched and blighted every railroad company and every community in cynical disregard of law and particularly of the Anti-Trust laws. . . ." Wiprud contends that the railroads not only have kept their rates high, but they have forced the maintenance of high rates by other forms of transportation and have retarded their development. These unconscionably high rates have forced the Government to pay exorbitant charges upon war traffic and have increased the cost of living. He states: "It is futile to place price ceilings on commodities and labor while the price of transportation, a basic element in production is ignored."

In discussing monopoly, the author bases his argument upon the premise that the people and Congress have, with few exceptions of minor significance, rejected monopoly in public transportation as opposed to public interest, but that private interests have always striven for monopoly. With this point of view, he sketches the development of transportation regulation, and concludes that the public has gained from such regulation only the promotion of safety, while it has paid "an enormous and unwarranted price" for this slight gain in "reduced competition and high rates." He demands that the Government cease attempting to stabilize the earnings of transportation enterprises and to stop trying to "salvage an unsound railroad capital structure" at the expense of agriculture, industry and commerce. Mr. Wiprud charges that the railroad territorial freight rate structures have developed a colonial system in the South and West, and have doomed the country, as a whole, to an unbalanced economy and a lower level of income. These rates are made by the railroads, he avers, in sixty private rate making conferences which constitute the rate making machinery of the country; and that competition between the railroads and other forms of transportation is a sham battle, because the traffic associations in the railroad and trucking industries prevent effective competition. He flays Government departments, particularly the Interstate Commerce Commission, the Office of Defense Transportation, and the War Production Board for their action in permitting carrier rate conference to function.

In discussing the Anti-Trust laws and the decisions of the United States Supreme Court in interpreting and applying these acts to transportation, Mr. Wiprud does not consider the cases in which the rule of reason was invoked, nor does he discuss the changes made in the railroad traffic associations following the decisions of the United States Supreme Court in the Trans-Missouri and Joint Traffic Association cases. He does not discuss the reservation of the right of independent action by carrier members of the associations, nor the provision of other acts such

as the Shipping Act of 1916; the Merchant Marine Act of 1936; and the Civil Aeronautics Act of 1938, which grant immunity, to the transportation enterprises subject to these acts, from the application of the Anti-Trust legislation and place carrier agreements among these carriers under the jurisdiction of the Maritime Commission and the Civil Aeronautics Board. On the contrary, he charges that those who suggest that the conferences be permitted to operate under the jurisdiction and control of the Interstate Commerce Commission are working to foster monopolistic competition.

Mr. Wiprud predicts that Government ownership may be forced upon this country not as a result of the draining of railroad revenues to other forms of transportation, but "when a thoroughly dissatisfied public becomes convinced that railroad financiers and railroad managements have not the imagination nor the resourcefulness to serve the public honestly and efficiently in the face of competition of newer forms of transportation."

The author concludes that the United States has an unparalleled opportunity to obtain improvements in transportation, provided there is: "States-maillike policies on the part of Government . . ."; modernization of railroads; the divorce of petroleum companies and pipe lines; and the development of competition not hampered by undue regulation. He urges that a Federal policy be based upon:

1. Better and cheaper transportation.
2. Modern transportation in all sections of the country without discrimination.
3. The development of competition through liberal issuance of authorization to operate services and the sparing use of the power of Government to regulate minimum rates.
4. The encouragement of each mode of transportation to recognize its full potentialities for service.
5. The prevention of vested interests from attaining a "more abundant and enlarged transportation service."

Mr. Wiprud's book is not an analysis of the problems but a vigorous and devastating attack upon what he states are the evils of our transportation structure and system. His argument is based upon two propositions, one economic and one legal. The economic foundation is his reliance upon the effectiveness of free competition, even in a public utility industry. The legal foundation of his argument is that the Anti-Trust laws are and should be invoked to break up and prevent railroad and other carrier traffic associations as unlawful combinations in restraint of trade.

The reviewer respects the vigor of Mr. Wiprud's attack but does not subscribe to the doctrine of laissez-faire in public utility industries which are subject to what he believes generally to be effective public regulation. He does not agree with the author's interpretation of the facts concerning the evils of carrier rate and traffic conferences or the application of the Anti-Trust laws to the conferences. Rather, he suggests that carrier traffic associations be made subject to the Interstate Commerce Act and that they be operated under rules and regulations prescribed by and supervised by the Interstate Commerce Commission which has jurisdiction over the carriers by rail, highway, pipe line, and water.

Mr. Drayton undertakes in his timely volume to present another side of the controversy now raging over the status of railroad freight traffic associations which are under attack by the Anti-Trust Division of the United
States Department of Justice. Mr. Drayton answers Arne Wiprud's vigorous and hostile attack upon these associations in "Justice in Transportation" with equal vigor and language comparably caustic. There are no foils on the weapons of these antagonists, indeed the weapons are often not rapiers at all but broadswords or bludgeons.

Mr. Drayton's thesis is that the railroad traffic associations in which the carriers meet and through which they publish freight rates are not only indispensable to avoid the chaos of ruthless rate cutting and destructive competition, but lawful under the Federal statutes. He argues effectively that the decisions of the United States Supreme Court in the closing years of the Nineteenth Century, which held that the traffic associations as then constituted, unlawful under the Sherman Anti-Trust Act, were decided as they were because the Act to Regulate Commerce of 1887 did not give to the Interstate Commerce Commission adequate powers to regulate and to prescribe the rates of railroads. Without these powers the public was then at the mercy of the railroads and without protection against unreasonable rates, except through the protection afforded by the Sherman Anti-Trust Act. His study and analysis of the legislative history of the Sherman Act leads him to conclude that the intent of the Congress as expressed in this legislation was not to have it apply to railroads but to extirpate trusts or combinations capable of suppressing competition. Proposed amendments to the Bill providing for the outlawing of contracts or agreements to prevent competition in the transportation of persons or property were rejected by the conferees, and the Act as passed contained no reference to railroads. His conclusion is that there is little doubt that the Congress intended that the regulation of railroads was to be accomplished by the Act to Regulate Commerce.

Since the Supreme Court decisions in the Trans-Missouri case and the Joint Traffic Association case, the Interstate Commerce Commission has been given the authority to regulate and prescribe minimum, maximum and actual rates of railroads, to suspend proposed rates from going into effect pending investigation of their lawfulness under the Hepburn Act of 1906, the Mann-Elkins Act of 1910, and the Transportation Act of 1920. Its powers of rate regulation and control in the public interest have been broadened still further by the Wheeler-Lea Transportation Act of 1940, with the result, in Mr. Drayton's opinion, that the Interstate Commerce Act as it now stands is adequate to afford the public protection against unjust and unreasonable freight rates.

Mr. Drayton's study of the organization and procedure of traffic associations leads him to conclude that they are needed to protect shippers and carriers from the chaos which would result if each carrier made its rates without knowledge of the rates which were made by other carriers. If this were the practice conditions of competition would bring the return of the very conditions of unjust discrimination, preference and prejudice which made imperative the enactment of the original Act to Regulate Commerce, and its subsequent amending acts which constitute the present Interstate commerce Act.

The purpose of the Sherman Act is to eradicate combinations in restraint of trade: the purpose of the Interstate Commerce Act, per contra, is to regulate the carriers and the rates charged to public. The function of the Interstate Commerce Commission to regulate carriers as businesses affected with a public interest and not to determine such matters by the

standards of the Anti-Trust laws has been recognized by the United States Supreme Court and emphasized as recently as in McLean Trucking Company, Inc. v. United States.\

Mr. Drayton challenges the premise of Mr. Arnold, Mr. Wiprud, and other spokesmen of the Department of Justice, that there must be free competition in order to insure shippers protection against extortion and discrimination. Mr. Drayton calls attention to the inconsistency in the policy of the Attorney General, Mr. Biddle, who, in Federal Communications Commission v. Sanders Brothers Radio Station, argued that there had been a substitution of government for competition as a means of protection of the public.

In language which often crackles with vigorous denunciation and scorn Mr. Drayton impugns the good faith of those whom he accuses of wrenching language from its context and distorting the facts in order to find apparent confirmation of the phantasy of conspiracy and collusion which they charge the railroads have used to defraud shippers, ruin competitors, and sabotage the war transportation program. Mr. Drayton calls attention to the experience of the Office of Defense Transportation, the War and Navy Departments, the Reconstruction Finance Corporation and its subsidiaries, the Department of Agriculture, the Interstate Commerce Commission, and other government agencies whose representatives, as well as, shippers, have testified in hearings before the Senate and House Committees on the indispensability of carrier traffic associations in the negotiations of freight rates in peace and in war. He quotes many responsible officers of government agencies dealing with transportation matters, prominent industrial traffic managers and representatives of nationally prominent shippers' organizations with respect to the importance of railroad transportation in the conduct of the war and of the necessity for traffic associations in the orderly conduct of rate negotiations with the carriers by shippers and by government agencies.

The present reviewer must confess to a bias in favor of traffic associations acquired by some years of study of the problem and through experience in negotiating rate adjustments. He would venture to suggest that these associations be required to be registered with the Interstate Commerce Commission, to file copies of their organization and plans of procedure with the Commission, and conduct their business under regulations prescribed by the Commission. He would also defend only lawful co-operation under such regulation, and would make the associations and the member carriers liable for intimidation of members and unfair competition practices against other members and non-members. He would suggest also that the member carriers have unhampered power to file rates different from those filed by other members of the association thus preserving the right of independent action. To this extent he agrees with the author of "Transportation Under Two Masters" and disagrees with the author of "Justice in Transportation," although he would be inclined to couch his criticisms of Mr. Wiprud's point of view and that of other spokesmen of the Department of Justice in terms less vehement than those of Mr. Drayton. He would accord to those who disagree with the position, that the public interest is best served by permitting what he considers to be reasonable and constructive regulation of competition by the Interstate Commerce Commission, the right of disagreeing with him and assume that they, like he, believed sincerely that their plan of regulation and control of carriers was the better way in the public.

interest. Mr. Drayton, however, does not find it easy to discover excuses for those "who through vindictiveness, or dogmatism or unreasoning ignorance, challenge the good faith and integrity" of Congress, of government officers, of shippers who disagree with them. A slight defect which makes the book less easily readable is the author's propensity to repetition particularly in the discussion of transportation policy. This defect, however, saves the reader the necessity of reference to other sections of this book when different aspects of the national transportation policy are under discussion.

G. Lloyd Wilson.†

GOVERNMENT AND LABOR IN EARLY AMERICA. By Richard B. Morris.¹

One who has accepted the idea not infrequently expressed that our colonial forefathers, in a continent of untouched resources, had complete freedom to conduct their business affairs as they saw fit, and that economic regimentation is a product of modern conditions, will have a rude shock if he reads this book. The opening chapter portrays the influence of the mercantilist philosophy in colonial thinking and legislation, with the result that almost all economic life was restricted by law to a degree which we can now scarcely comprehend. The different colonies, and their subordinate legislative agencies undertook to regulate the trade or business a man could enter and the prices he could charge for his services or products. A legally controlled economy was accepted as the normal form until the time of the revolution and even later.

After giving us this general picture, the author considers in detail the regulation of labor in America before and during the Revolution. He is not content with setting forth the laws of the different jurisdictions covering the various aspects of labor relations, but he has gone to the newspapers and to the court files to ascertain as far as possible just how these laws operated. Much of the book is occupied with a summary of the facts thus found, stated with considerable detail, perhaps too much detail to hold the interest of the general reader, but certainly assuring to the student that the field has been well covered so that the ground need not be gone over again. At the same time, both the light and the dark sides of the picture are so presented as to give one not familiar with the original sources confidence that they have been thoroughly examined, and impartially summarized.

The picture so presented is not an attractive one. Even the free laborer found himself controlled in most of his activities. The governing bodies were primarily interested in meeting the problems of a lack of manpower, and the solution they sought was control of the worker in the interests of the employer. Wages and hours of work were, in general, fixed to limit the leisure time and the maximum wage. In some colonies restrictions were imposed to limit the opportunity of the craftsman to go into agriculture where his opportunities to improve his condition were greater. During the Revolution, the manpower shortage became acute and the measures taken to relieve it became more frequent and more drastic. At this period the author finds for the first time an opposition to these rigid controls based on the concept of individual liberty. Up to this time

† Professor of Transportation and Public Utilities, University of Pennsylvania.
¹ Associate Professor of History, College of the City of New York.
the chief open opposition had been based on the futility of wage and price controls, for the general picture is one of unenforceability of these laws.

A still darker aspect of the picture is found in the fact that most labor was not free, but came from indentured servants or apprentices or from slaves. The chief practical distinction between these two groups was that the condition of the former was limited as to time. Most of the indentured servants were bound to work out the money spent for their passage to this country for terms of varying length, four years being perhaps the most common. While the status generally originated in contract, though in many cases procured by duress, the contract acquired many of the attributes of a property interest. It could be assigned by the master, unless the indenture expressly provided otherwise, and on his death it was part of the assets of the estate. If the contract was breached by the servant, the courts could order him to perform, and could penalize him by requiring extra service after the expiration of the term. Where servants came over without indentures, or they had been lost, and later when convicts were sent over as bound labor, the colonial courts could fix the terms of the service in accordance with custom.

Not all of the laws governing this relationship were in the interests of the master. Many of them sought to protect the health and safety of the servant against cruel or rapacious masters, but, since the courts were generally in the hands of the masters, the servants did not fare too well in them. The master might be found guilty of violating the rights of the servant, but seldom did that entitle the latter to his freedom, even in the cases where the master had raped his maid-servants. Moderate corporal punishment was allowed, and even commanded to keep the servants in line, and only occasionally did the court find that the punishment had been excessive. On the other hand the servant, unlike the slave, was a legal person and possessed legal rights. He could make contracts and own property, and there were cases where he even loaned money to his master.

In the final chapter, the author compares the problems of early America, with those of the present as far as labor relations are concerned. Of course, the problem of strikes was almost absent at a time when labor unions as we have them were unknown, and when any combination of workingmen was regarded as akin to insurrection. Nor was there any general unemployment problem. But the questions arising during our recent war years of manpower shortage, allocation of labor to industry and the army, and preservation of some balance between wages and the ever increasing cost of commodities were prevalent during the colonial period, and became acute during the Revolution. The problems then were largely handled by the colonial legislatures or by local authorities, since the Continental Congress had only power to recommend. Our author finds that the Revolutionary attempts to meet these problems were less successful than were the national attempts during the recent war.

In a book of such general outstanding excellence and extensive research it seems captious to criticize. To one also interested in equity procedure, the most serious lack felt was the failure to trace the origin of the practice of the local courts to grant specific performance of a contract to render personal services, in such typical common law actions as case and what looks very much like detinue for a chattel. He even intimates that the refusal to enforce these contracts specifically was brought about by the Thirteenth Amendment to the United States Constitution or by the Clayton Act of 1914, though, of course, the refusal of equity to decree specific per-
formance of personal service contracts long antedated these. But in general the legal problems involved in the control of labor are more accurately treated than is usual in non-legal studies. The lawyer, as well as the sociologist and economist, will find much material for present day use in this excellent work.

H. L. McClintock.


If you are a practising attorney the odds strongly favor your being called upon to advise veterans of World War II concerning the rights, privileges and immunities afforded them under Federal and State law pertaining to veterans; for there are 16,000,000 of these veterans, 12,000,000 already back in civilian life. These, and the surviving dependents of the 270,000 men and women who will never return from the wars, represent a significant percentage of the country's total population; most are entitled to special statutory benefits in one form or another; most will require legal advice and assistance for years to come, if they are to realize fully on their rights. The duty of giving this advice and assistance should not be left to the press, the radio, or the various public and private aid organizations. It is essentially a lawyer's job. And the lawyer should do something more than refer such clients to the Veterans Administration or write to that agency on the client's behalf. The Veterans Administration is currently receiving 125,000 letters a day; it has already handled over two and a half million veterans' claims and requests arising from World War II. The very magnitude of its assignment and the conflict of interest which, in a sense, exists between the veterans and the government in the disposition of claims, impersonalize its service and limit its assistance to the individual veteran.

To effectively serve this deserving clientele, the lawyer must have an adequate text. Veterans law is a specialized field. Its sources are scattered, sometimes obscure, often difficult of procurement. An "adequate" text would be one which collated these sources in usable form, preferably in a single volume. Each of the three books under consideration represents its publisher's attempt to fulfil this need.

Considering them one by one, inversely to the order of their value to the legal profession, we come first to the "Veteran Law Manual." This paper-bound, pamphlet-like volume appears, from type-face and make-up, to be a reprint of what once was and still may be a part of the loose-leaf service of that pioneer of loose-leaf service, Commerce Clearing House, Inc. The great value of a loose-leaf service lies in its up-to-dateness. But this evanescent quality disappears in a bound and final volume reprinted from the plates originally composed to meet the temporary needs of a practitioner faced with a then current problem. The very breathlessness of the reading, the compactness of the format, and the arrangement of the material render

† Professor of Law, University of Minnesota.
difficult the use of a permanent volume so composed. The lack of decisional material and editorial comment render it suspect as to completeness.

This is not to say that “Veteran Law Manual” is a mere compilation of statutes and regulations. On the contrary, there are some footnotes and explanatory text. Even these, however, are keyed to the Commerce Clearing House service (War Law Service) from which the plates appear to have been taken. For example, Paragraph 426 gives the pecuniary items received in connection with military service which are excludible from gross income for purposes of taxation. Listed are such interesting items as: “Chaplain—Value of living quarters or allowance in lieu thereof,” “Widows’ pensions,” and “Personal cash allowance received by admirals and vice-admirals.” However, when one looks to the footnotes for the authority for such exclusions one finds such esoteric references as “461 C. C. H. Para. 53.071, 113D.032.” These license-like numbers bear no relationship to anything found in the text.

“Veteran Law Manual” presents one exclusive feature: a somewhat naive, yet helpful, check list of things that the veteran should do without delay when he resumes civilian status, such as reporting to his draft board and writing down for reference and posterity the essential facts relating to his military service—lest he forget. This appears in the introduction.

For a handy, inexpensive, highly portable (almost pocket sized) reference book to the G. I. Bill of Rights, the National Service Insurance Act, and other statutes relating to servicemen’s and veterans’ affairs, this book is probably adequate.

The West Publishing Company’s effort, modestly described on the title page as “A Comprehensive and Authoritative Exposition of the Acts of Congress, the Judicial Constructions and the Administrative Regulations Defining the Rights and Benefits of Veterans,” is a much more ambitious undertaking. The very feel of this thick book, the velvety smoothness of its rich red binding, the impressive gilt letters, and the engraving of the U. S. Capitol building on its cover, combine to engender confidence in the unwary purchaser or reader. Here again is a book that was put together in haste. Its derivative source, however, was much better than a loose-leaf service; in consequence the result is a more substantial contribution.

From the type-face of the notes in “Veterans’ Benefits” it is fairly evident that most of the material was lifted bodily from the publisher’s excellent series, United States Code Annotated. The same sterling scholarship that went into that work was transferred intact to the present symposium on veterans’ affairs. This book constitutes no more of a final authority on legal questions than does the United States Code Annotated.

Commenting in a more serious vein, “Veterans’ Benefits” represents a rather thorough collection of statutes relating to veterans’ affairs, and a considerable portion of the annotations to those statutes as found in U. S. C. A. It is supplemented here and there by an explanatory text, and some attempt has been made to annotate with references to legal periodicals.

The best of the three, but subject to improvement, is The Lawyers Cooperative Publishing Company’s endeavor which, according to its title page, is merely “An Encyclopedia of the Rights and Benefits of Veterans of World War II and their Dependents, with Statutes, Regulations, Forms and Guide to Procedure.” This book was written de novo; no similar sources were raided by its hard working co-editors, Robert T. Kimbrough and Judson B. Glen. Considering the relatively short time which could have been allowed for the performance of this labor of original research, it is an excellent job. The text is full and thorough. The statutes, regu-
lations, and supplementary material are set forth in an appendix and are not made a part of the text. The footnotes are complete in respect of the subject covered. The coverage includes the Code of Federal Regulations, United States Code, and The Regulations, Instructions, and Decisions of the Veterans' Administration.

There is a dearth of references to decisions of courts, and an even more serious criticism lies in its failure to consider the decisions of the Comptroller General or the Attorney General. For a work which styles itself an "encyclopedia," the omission of these important and relevant authorities is censurable. For example, Part D of Chapter V is entitled "Rights of Veterans in Federal Positions." A number of Comptroller General's decisions affect this problem considerably; yet none are included in this volume.

To the particular credit of the "American Law of Veterans" it should be noted that almost every Veterans Administration form required for the prosecution of any claim or request for any benefit, is to be found between its covers. The arrangement of these forms is excellent. At the end of each chapter there is a section entitled "Forms Referred to in the Forgoing Division." Then follows an exact reproduction of each such form.

Appendix C contains an excellent summary of state laws giving rights and benefits to veterans. Unlike the "index" to the same material which appears in the West Publishing Company's book, one can read this summary and ascertain not only that there is legislation on a subject in which one is interested but, in brief, what it provides.

The foreword to this book points out that "some changes will undoubtedly be made in the statutes and regulations on this subject" but that the "history of such legislation . . . affords reasonable assurance that the basic pattern and framework of veterans' law will remain intact, and that changes in detail can be accommodated to the plan and outline of the present work by means of pocket supplements." It is to be gathered from this and the presence of a "pocket" in the rear of the book that supplementation is intended. As to the second book discussed, the presence of a "pocket" is the only basis for such an inference. In the case of the Commerce Clearing House publication, supplementation is obviously not intended; matters will probably be brought up to date by a new (4th) edition.

In conclusion let us consider a provision of veterans' law which is treated in all three books. One that catches the eye in running the indices relates to the authorization to provide "seeing-eye" dogs to blind veterans. "Veteran Law Manual" merely paraphrases the eighty-two words of the basic provision, uses only four words less in so doing, and gains nothing by way of clarity. "Veterans' Benefits" makes the verbatim text of this brief passage an entire chapter; and devotes one of its large pages entirely to its display. In the middle of that page it sits lonesomely, for its only company is a main heading, a sub-heading, and a terse "historical note" to the effect that an appropriation for its purpose has elsewhere been authorized. The text of "American Law of Veterans," in addition to referring us to the basic provision by footnote (which provision may be found verbatim in the Appendix together with the exact language of the appropriation authorization), tells us three things which are not apparent from a mere reading of such provision: (1) that a veteran who is blind and entitled to service-connected disability compensation, is entitled to the benefits of the provision whether or not his blindness is service-connected; (2) that the dog becomes the property of the veteran; and (3) that, as the veteran's property, the dog becomes the veteran's responsibility, legally and
otherwise. These statements are supported by footnote citation to administrative decision.

By the foregoing comparison the relative merit of these works may be judged.

Sanford Stoddard.†


Ludwig Teller’s brief in favor of an all-inclusive piece of federal legislation covering most phases of any given relationship between employees, unions and employers is certain to arouse a storm of controversy. What appears at first blush to be an integration of existing federal statutory law on the subject of labor relations, upon closer reading turns out to be, in addition, a proposal to revamp what by this time are well settled policies, to establish certain new policies and to provide for a new type of administration of both.

The author of the three-volume work entitled “Labor Disputes and Collective Bargaining” divides his new book into two parts. The first part deals with alleged defects and inadequacies of present labor policies. Throughout this portion of the book the author’s theme is repeated: that there is lacking an affirmative governmental policy which seeks to reconcile the larger conflicting interests in labor controversies. It is the avowed purpose of the labor code, which Teller goes on to propose, to provide such an affirmative governmental policy while, at the same time, purporting to leave the labor contract and “legitimate concerted labor activity” to free collective bargaining.

In support of his thesis that present labor policies are defective and inadequate, Teller searches for evidence into the histories of the development of national and state labor policy and of the role of the courts in labor controversies. Fault is found with respect to the administrative procedure connected with each of the major federal statutes in the labor relations field. Basically all are found wanting in that they fail to give private parties the right to sue in their own behalf. Further criticism is levelled against the administrative aspects of present federal labor laws because of their time-consuming nature, their separation of the responsibility to hear from the power to determine, and their lack of centralized procedure for administration, adjudication and enforcement.

In Chapter Four which concludes the first part of the book Teller offers interesting references to the report of a Commission appointed by the President in 1938 to study British and Swedish procedures concerning labor disputes and collective bargaining. Reference is here also made to the investigation and report of the Committee on Trade Union Democracy, formed in 1941 by the American Civil Liberties Union to study the internal affairs of labor unions. In this chapter, too, Teller reviews the major labor legislation proposals which Congress considered during the recent war years and the period immediately preceding them. Senator Wayne Morse, in his foreword to the book, comments concerning this period: “Addicts of the ‘Let’s pass a law approach’ as the cure-all for the nation’s labor troubles should find little comfort in the sorry labor legislation record made by Congress during the defense preparation and war years.”

† Member, Iowa Bar; Attorney, Office of the Solicitor, U. S. Department of Agriculture.

⊥ Member, New York Bar.
due respect for the careful study and research which the author obviously conducted in the preparation of his book, it might nevertheless, with justification, be noted that he, too, appears to have fallen for the "Let's pass a law approach."

Part Two of the book deals with the proposed labor code. Those who have no difficulty agreeing with the first part of the book may well find themselves shouting, when they get into the second part: "This is not the answer." Curiously enough, however, many readers will find little difficulty in subscribing to the three fundamental propositions which assertedly underlie the code: (1) the need for formulation of a government policy relating to labor disputes and collective bargaining; (2) the desirability of coordination in the field of wages and hours and related standards and the establishment of a single statutory reference consisting of (a) integrated sections of federal laws relating to labor standards and (b) sections on labor controversies and collective bargaining; and (3) the wisdom of setting such a statute in the context of the administrative process, with procedures designed to expedite proceedings arising under the law, while at the same time affording guarantees of fair hearing and respect for private rights. From these three propositions, Teller has evolved ten guiding policies. These ten policies, which the author describes as "now generally accepted," are the major premises upon which the proposed code is sought to be based.

The ten guiding policies merit a brief statement. They are: (1) That the right to form and join labor unions is to be protected and encouraged, and the growth of strong, stable and secure unions is to be favored; (2) that the protection of management rights in industrial enterprise is a matter of government concern; (3) that the right to strike, picket, boycott or engage in other concerted labor activity should be preserved; (4) that the collective bargaining agreement should result from free collective bargaining, unhindered by government compulsion; (5) that issues involved in labor disputes and collective bargaining involve social and public interests; (6) that labor controversies should be settled by peaceful procedures; (7) that the use of facilities for the settlement of disputes, whether found in privately made procedures or publicly established tribunals, should be encouraged; (8) that labor unions and employer organizations are impressed with public interest; (9) that discrimination against persons, in regard to employment by employers or in regard to membership by labor unions, on account of their race, color, creed, national origin or political beliefs, is opposed to the social interest in preservation of democratic participation in the economic life of the country; and (10) that the maintaining of progressive standards of minimum wages and maximum hours of employment, and related beneficial standards of employment, are matters of governmental concern.

The seven chapters which succeed the outlining of the underlying propositions and guiding principles and which constitute the proposed labor code and its explanation and rationale are fair warning that it is not always the major premise that must be watched. It is often the minor that necessitates the irresistible conclusion. Many a reader will find himself nodding with approval at the basic statements and violently shaking his head at the code to which they give birth.

Credit is due the author for his careful documentation, the freshness of his style and the careful analysis which marks the early portions of his book. All in all, however, it adds up to a magnificent non sequitur.

S. Harry Galfand.

† Member, Philadelphia Bar.
BOOKS RECEIVED


(458)