

12-1-1950

## FEDERAL TAX REFORM. By Henry C. Simons. Chicago: University of Chicago Press, 1950.

Richard A. Hausler  
*University of Miami School of Law*

Follow this and additional works at: <https://repository.law.miami.edu/umlr>



Part of the [Law Commons](#)

---

### Recommended Citation

Richard A. Hausler, *FEDERAL TAX REFORM*. By Henry C. Simons. Chicago: University of Chicago Press, 1950., 5 U. Miami L. Rev. 177 (1950)

Available at: <https://repository.law.miami.edu/umlr/vol5/iss1/27>

This Book Review is brought to you for free and open access by University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact [library@law.miami.edu](mailto:library@law.miami.edu).

ploited. Just now Brazil and its Latin American neighbors are obtaining the know how and the financial aid necessary to get this stuff from the land and put it to work. Progress and increased national strength as well as increased international bargaining power will soon follow. Nowhere could this point be brought home more clearly than in the pages of the present volume. There are over 500 big pages printed in rather small type. The book took most of the summer to read. But it was well worth the effort. In a nutshell, *Brazilian Culture* is what John Gunther's *Inside Latin America* could have been.

HUGH L. SOWARDS

PROFESSOR OF LAW  
UNIVERSITY OF MIAMI

---

FEDERAL TAX REFORM. By Henry C. Simons. Chicago: University of Chicago Press, 1950. Pp. x, 161. \$3.50.

PUBLICATION of this posthumous volume of the late Professor Henry C. Simons' mature judgments on the contemporary federal tax structure completes his distinguished work in bringing to legal education an integrated theory of political economy. Simons sought to bridge the gap that seems to exist at times between the vital and common matter of tax law and the fundamental principles of economics—two studies which must not be allowed to develop in their own little bailiwicks.

Nearly all varieties of social reformers have made common resort to taxation, and have attempted to present their own idea of utopia in a nutshell. In Simons we find a distinguished economist who was well aware that many reforms, however necessary, are often carried to an excess that in turn will need reforming. He is not offering a ready-made scheme for immediate political action, but rather a set of integrated ideas which will inform action, to some extent soon and perhaps to a larger extent as time passes. His incisive essay constitutes a long-run fiscal program.

Although the essay which is now published was prepared in 1943, revised in 1944, and rearranged in a subsequent year, the chapters have been combined into a thoroughly consistent, unified whole. The book is something far better than a mere collection of ideas or essays, for due to the achievement of literary thrift in unifying his studies, he has left for us little, if any, of the difficulties which collections frequently present. Little attempt has been made in the text to eliminate the characteristics which date its compositions; the result is that the essay appears in atmosphere in which Simons wrote—a period that invited bold project for economic policy.

Simons was of the opinion that the proper purpose in designing a tax

is to achieve maximum fairness among persons. He believed that this basic theme of equity must predominate over, if not wholly over-ride, all other objectives in an advanced nation's tax system. The adequate means to this end in an enterprise economy entail a major reliance on the progressive personal income tax.

Unfortunately, this equality test is not met by the present federal tax law, largely due to the fact that according to its provisions relating to capital gains and losses, "realized" capital gains are taxed at different rates than other types of gains, and "unrealized" gains aren't taxed at all.

However, under the Simons tax reform plan, we have something more than the utilization of the personal income tax as the predominant source of federal revenue (with source collection from corporate dividends and interest payments, as well as from salaries and wages). He proposed the elimination of special treatment for realized capital gains and losses (gains would be fully taxable and losses fully deductible, with segregation). To this he added a simple averaging device involving rebates at periodic intervals to equalize the remaining fluctuations of income through time. Furthermore, the Simons plan provides for treatment of *all* transfers of property (by sale, devise, gift, inheritance, etc.) as "realizations" by the transferor of the estimated fair market value at the time of the transfer, with the basis of the transferee to be that estimated value as reported by or for the former owner.

Having theorized that taxes should fall on the natural person or family as a consuming and saving unit, he urges that there should be repeal of the income tax on corporations. This idea, of keeping taxes as far away as possible from the sphere in which investment decisions are made, means that the effect of taxes should be concentrated on consumption and saving and not on productive enterprise and management.

Thus, the Simons plan for tax reform has many merits in addition to mitigating the inequities of the present federal law; the other merits of the reform include its tendency to promote economic stability (through automatic changes in revenue), and its tendency to stimulate business (through the abolition of the business tax) and preserve the free enterprise society.

The entire essay begins with conclusions, followed by a chapter devoted to general discussions of objectives, proceeds into matters of detail (Simons being a persuasively practical reformer embodied his objectives in specific proposals), and concludes by picking up some loose ends. The discerning discussion is divided into two main parts: the first part offers a perspicacious economist's studied and practical plan for tax reform; the second presents a penetrating study of the fundamental inequities of our contemporary tax system.

Throughout the volume are spread sagacious suggestions, explanations, and criticisms calculated to stir useful thought and invigorating discussion

invaluable to lawyers, legislators, and laymen. Some may be compelled not to agree with all of the general objectives or the specific proposals of the Simons plan, but all should admire Simons' sensitive skill in having concerned himself with fundamentals and having presented his theories concisely in a context of policy discussion. Law teachers may with good conscience prescribe this book for their students, for law case study should proceed from an understanding of policy problems.

May Simons' incisive studies help us (who, I trust, will follow through with action-out-of-discussion, which is the essence of our democratic political process) to reverse the devastating tendencies in governmental tax policy of which he was a constructive critic.

RICHARD A. HAUSLER

ASSISTANT PROFESSOR OF LAW  
UNIVERSITY OF MIAMI

---

**THE NEW FEDERALISM; An Inquiry into the Means by Which Social Power May be so Distributed Between State and People as to Insure Prosperity and Progress.** By Samuel Seabury. New York: E. P. Dutton and Company, Inc., 1950. Pp. 311. \$5.00.

OF making books about the dangers inherent in Centralism, in "big government," there is, or seems to be, no end. Beginning with the much-controverted exposition by Hayek and reaching its ridiculous zenith in John T. Flynn's effort to equate New Dealism, Fair Dealism, the "welfare state," democratic socialism, and authoritarian Communism, the threat to freedom from expanding governmental functions has been trumpeted to the world, with an able assist from many newspaper editorialists and columnists and radio commentators.

Judge Seabury's book is not to be classed with those of the aforementioned writers. His writing is certainly not characterized by the irresponsible shibboleths and generalizations which Flynn uses in his tirade. Nor is it based on the type of economic analysis which Hayek employs. It is more in the nature of a theoretical and juridical presentation, based on his interpretations of the concepts of law, sovereignty and federalism. It is described in the publisher's blurb as "Judge Seabury's political testament . . . — a permanent contribution to the thinking of our time."

It is difficult to judge just when this "political testament" took shape in the mind of the author. Although there is very little of an explicit nature to indicate that Judge Seabury is attacking the New Deal and Fair Deal in this country, there is certainly ample implicit evidence that the book is primarily designed to discredit these trends. Yet the bibliographical materials cited in the footnotes and listing of principal works considered