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Book Reviews

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BOOK REVIEWS

THE BEST OF TRUSTS AND ESTATES—ESTATE PLANNING. By Julian S. Bush, P. Philip Lacovara, & Edward S. Schlesinger. Albany, N.Y.: Matthew Bender & Company, 1965. Pp. iii, 915.

This is indeed a valuable book, both to the specialist in estate planning and to the general practitioner who has an interest in the area. As indicated in the preface, this is an idea book—a volume to which the estate planner may turn for a consideration of the relevant factors to be considered. It is not a law book, although much of the law of estates, trusts and taxes is in it. It is not a form book, although there are included in it some excellent suggestions concerning selected forms. Instead, it is a ready reference desk book containing the selections made by the editors of the most helpful articles published in *Trusts and Estates* magazine since the enactment of the Internal Revenue Code of 1954. One of the most fertile sources of ideas in estate planning today is found by scanning and reading the articles and commercial leaflets which cross the desks of attorneys, trust officers, insurance men and accountants in increasing numbers. *Trusts and Estates* magazine has for years been one of the very best periodicals in this field. *The Best of Trusts And Estates* has as its purpose the selection and republishing in one volume of the most widely recognized articles appearing in the magazine since 1954.

There are one hundred and four articles arranged in eight chapters entitled, "Estate Planning—A Panoramic View," "Using the Marital Deduction," "Income Tax Planning," "Making the Most of Gifts," "Minimizing Administration Problems," "How to Handle Business Interests," "Arranging Life Insurance," and "Drafting Wills and Trusts." The citation and date of the original publication of each article is stated, and in many instances there is an addendum by the author which brings the article up to the date of the book. In addition there are excellent introductory commentaries by the editors at the beginning of each chapter which reflect helpfully the current status of our intellectual thought and maturity.

This reader feels that the book becomes dramatically more valuable and interesting after Chapter One. The articles on the marital deduction, income tax planning, etc., as above listed, provide excellent selections reflecting the competing values which have been developed and argued during the ten-year period, and it is a pleasure to have them all together in one volume. While Chapter One: "Estate Planning—A

Panoramic View" contains some excellent pieces, 145 pages of the volume seems too many pages to devote to a deference for the good will of the four types of business and professional people who work in the estate planning field, *i.e.*, the insurance counselor, the trust officer, the accountant and the lawyer. The valuable contributions that each member of the estate planning "team" can make is well reflected in several places, and these together with some excellent pieces on the reasons, purposes and possibilities that can be achieved provide a very broad panoramic view indeed. In subsequent chapters the concentration is more incisive and, consequently, to this reader, more complete and rewarding. It is easy to recommend this book to the practitioner interested in estate planning.

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AN ELECTRONIC CASH AND CREDIT SYSTEM. By Allan H. Anderson, Donald T. Cannell. New York: American Management Association, 1966. Pp. xiv, 142. \$7.50.

"Jurimetrics," "cybernetics," "electronic data processing," "information retrieval" and a myriad of like terms represent the *nova lingua* of the legal age in which we live. This is the era of the mechanized brain—a "brain" which plays with numbers and never forgets what it is told. It is perhaps too early to say whether the computer will prove to be a panacea for mounting problems of accounting in the modern commercial community. However, it is not too early to predict that the computer and its counterparts will play an increasing role in the lives of all, providing, of course, that we can reach some accommodation between the computer's labor-saving characteristics and its proclivity for invading individual privacy, which to some is intolerable. After all, the gossip who forgets nothing, and tells all indiscriminately to anyone who asks, may be something more than a mere nuisance.

The implications of the policy problems raised by the preceding paragraph of this review are not the subject of this book. The authors, students at the Harvard Graduate School of Business, are concerned only with describing a computerized system by which goods may be distributed for cash held by the purchaser's bank or financing institution without the intervention of the present checking system whereby orders are drawn by the purchaser on the third party (bank) holding the drawer's funds. Although the authors do not say so, the proliferation of the check has resulted in the bank's wallowing in a sea of paper

—stale, kited, N.S.F., “payment stopped” and too numerous. Unless we are to return to the practice of using only cash for our purchases—an impractical alternative—something must be devised to remedy the ills of the present system. The Macedonian call has already gone out for the “checkless society,”¹ and the research represented by this book is a useful beginning.

Any worthwhile system designed to replace the presently inadequate check or order device should address itself to the major problems of checking systems. The electronic system must be economically feasible; EDP machines are costly, but processing billions of pieces of paper is becoming prohibitively so. Any new system must have built-in protections against the unauthorized paying out of the depositor's funds; it must, as well, be so engineered that the bank (drawee) can insure that no funds will be paid out on behalf of the depositor where they are uncollected or non-existent. Speed, directness, simplicity, and a recognizable audit trail are requisites. The question is how to untie the Gordian knot which is slowly strangling our financial institutions. Surely the ingenuity of modern man is equal to the task of inventing a system by which banks can pay out depositors' monies other than by a “bill of exchange . . . payable on demand.”

The authors of this book did their research in partial fulfillment of the requirements for a course at the Harvard Graduate School of Business Administration. The nucleus for a potentially feasible electronic data processing system for commercial use is presented in some detail. The system described is called “On-Line, Real-Time” (OLRT), which, at the risk of oversimplification, works in the following manner. John Q. Depositor has an account at the First National Bank of Utopia, as well as a line of credit up to 1,000 dollars. All local stores, shops, and service stations of Utopia are connected with the bank through the OLRT system. When the depositor purchases a widget costing \$25.00 at the Ajax Department Store, he gives the clerk an identification of some kind which is inserted in an input-output device connected to the system, which utilizes a computer located at the bank. Almost instantaneously, and completely automatically, the depositor's account is examined electronically, and if the balance is adequate, his account is debited and the store's account is credited in the amount

1. REPORT OF JOINT COMMITTEE ON CHECK COLLECTION SYSTEM TO THE AMERICAN BANKER'S ASSOCIATION, ASSOCIATION OF RESERVE CITY BANKERS, CONFERENCE OF PRESIDENTS OF FEDERAL RESERVE BANKS, STUDY OF THE CHECK COLLECTION SYSTEM I (1954); Watson, *Man and Machines—The Dynamic Alliance*, AM. BANKERS ASS'N PROCEEDINGS, NAT'L AUTOMATION CONFERENCE 9, 10 (1965); Clarke, *Legal Aspects*, AM. BANKERS ASS'N PROCEEDINGS, NAT'L AUTOMATION CONFERENCE 449, 450 (1965) (cited in Dunne, *Variations on a Theme by Parkinson on some Proposals on the Uniform Commercial Code and the Checkless Society*, 75 YALE L.J. 788 (1966)).

of purchase. If the account had been inadequate, the line of credit could have been tapped for the "payment" of the purchase—the whole transaction being virtually "untouched by human hands."

"On-Line" simply describes the "hook-up" of the various parties involved, and "Real-Time" is, according to the authors, "really nothing more than a kind of tolerance limit on the delay experienced between the transmission of a message and the receipt of a response, between a query and an answer."² The similarities to credit card transactions are obvious, and yet the dissimilarities—its precision and built-in protections—are just those things which make it vastly superior.

The authors are not lawyers and their system is skeletal, but it appears, in its essential terms, to be feasible and, perhaps inevitable. These problems are not insurmountable.³ The benefits to be reaped from a perfected data processing system present a pleasant prospect indeed—no more bad or stale checks, termination of the stop payment problem, elimination of kiting as processing time is cut to zero, avoidance of payments by mistake, elimination of forgeries and requirements of presentment, and virtual discontinuance of the use of certified and cashier's checks.⁴

The book may be read with profit by all who are concerned about or interested in the future of commercial law in this country. Despite its technical nature it is readable, and may very well be the seminal work in this area as a viable electronic data processing system is developed.

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2. ANDERSON, *et al.*, AN ELECTRONIC CASH AND CREDIT SYSTEM 20 (1966).

3. Dunne, *supra* note 1.

4. The horrors catalogued here constitute the bulk of any course in negotiable instruments.