a constitutional lawyer, he is also a constitutionalist. And I should suppose that the very heart of the concept of constitutionalism is that all those in the government who exercise power are subject to law, no one being above or beyond the law. This goes for the President also and while the power of the chief executive is vagrant, ill-defined, and illusive by its very nature, the central purpose of constitutional government is to keep the stream of executive authortiy within the banks of legality. This, I suggest, is a noble theme, to which Corwin has made a distinguished contribution.

DAVID FELLMAN†

TAX MANAGEMENT OF ESTATES AND TRUSTS. New York. By Practising Law Institute, 1957. Pp. 57. $3.50.

This paper-bound volume is a compilation of extracts from a carefully planned Practising Law Institute Forum attended by a large audience of practicing lawyers. Members of the panel discuss tax problems arising from the management of a small estate, a medium-sized estate, and a large estate. The book is conveniently printed so as to leave a blank page opposite each printed page for notes.

Of greatest importance to the busy lawyer is that the book is composed entirely of discussion of practical questions and suggested answers without an erudite description of background and theory. Consequently one may read through the forty-five pages and be confronted in a short period of time with the principal tax questions that are bothering lawyers most active in the administration of estates and trusts. As an example of the earthy discussion reported, here are some of this reviewer's notes which were written in pencil on the blank page afforded for that purpose opposite the discussion of the subject matter:

(1) Estates in the lower brackets may well elect the higher valuation date even though it might involve some estate tax, in order to get a higher tax basis for the property in event of later sale.

(2) Some difficulties inherent in the estate of the standard marital deduction formula are:

- (a) The share of the surviving spouse can be directly affected by the choice of optional valuation dates.
- (b) The share of the surviving spouse will be affected by the decision to charge attorney's fees as an estate tax deduction or as an income tax deduction.

† Professor of Political Science, University of Wisconsin.

(c) A surviving spouse may get more than one-half the taxable estate if the share is fixed by the higher value at the time of distribution and the tax election is at the lower value at the time of death or one year thereafter.

(3) Attorney's fees may be allocated so as to be deducted partly on the estate tax return and partly on the income tax return, or all can be taken on either return.

(4) Partial distribution other than under a specific legacy, results in the receipt of taxable income by the recipients to the extent of all income received by the estate during the year of distribution. (Sec. 662)

(5) The mere changing of the registration of decedent's automobile to the surviving spouse will result in the distribution of taxable income to the surviving spouse unless the auto passes by specific bequest under the will. (Sec. 662).

(6) When a *specific* legacy is paid in *more than three* installments, all of the installments become taxable income to the beneficiary to the extent of the pro rata share of estate income allocable thereto, and this applies retroactively, upon payment of the fourth installment! (Sec. 663)

(7) The first income tax period of an estate may be for the period to the end of the calendar year, or for a fiscal year ending one year from date of death.

(8) Even though a transferred insurance policy is not in contemplation of death, the subsequent payment of premiums by the donor may be, and might cause the inclusion of a pro rata portion of the insurance proceeds in the taxable estate of the donor.

(9) The redemption of all stock of a corporation owned by an estate that does not qualify under Sec. 303, might be ordinary income to the estate because of stock ownership in the same corporation by the beneficiaries of the estate. (Sec. 302) (Sec. 318) So also might redemption of all stock owned by a beneficiary who would later receive stock from the estate.

(10) Medical expenses in connection with the last illness may be deducted *either* or decedent's last income tax return, *or* the estate tax return. They may not be claimed on the estate's income tax return.

The drastic changes effected by the 1954 Code have yet to be explained and compiled in a single text. No one yet knows all that was done in the 1954 Code, for the courts have yet to have their say. Until the complete manual has been written, we need books like this to keep reminding us that what we have learned in this field is no longer the law.

MERLE H. MILLER†

† Member, Ross McCord Ice & Miller, Indianapolis, Indiana.