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## Some Phases of Our Inheritance Tax Law

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## SOME PHASES OF OUR INHERITANCE TAX LAW.

Inheritance tax laws exist today in a large majority of the States.<sup>1</sup> This form of taxation is proving more and more attractive as a revenue producing agency in State Government, and the present day tendency seems to be to frame laws, or amend existing ones, so as to produce larger revenues from this source.

For twenty-five years—from 1885<sup>2</sup> to 1910, New York had what might be termed a flat-rate inheritance tax law. Wherever the total estate of a deceased person exceeded \$500, if the transfer were to collaterals and strangers, and \$10,000 if the transfer were to direct heirs,<sup>3</sup> the rate of taxation was the same,—a flat 5% and 1% respectively.

Since July 11, 1910,<sup>4</sup> however, New York has added itself to the number of States enacting progressive-rate inheritance tax laws. Under the Statute as it exists today,<sup>5</sup> the primary rate is quadrupled (4%) when the transfer to an individual direct heir exceeds a million dollars, and is augmented to 8% when a similar amount is transferred to a collateral or a stranger.

The result of this progressive tax is shown in certain comparative figures presented by State Comptroller Eugene M. Travis in his annual report for 1916. Says the Comptroller:

“The sum of \$8,263,893.67 was paid into the state treasury as the net receipts from the tax imposed upon the transfers of the property of deceased persons for the fiscal year ending Sept. 30, 1915. There were 8,724 reports of appraisals of estates filed in this office and 10,879 orders entered in the surrogate's courts of the various counties during the past year. In sixty of these estates the tax was over \$10,000 but less than \$20,000; in forty-six it was over \$20,000 but less than \$50,000; in eighteen it was over \$50,000 but less than \$100,000; and in fourteen it was over \$100,000 but less than \$500,000. The tax received from these 138 Estates, however, represents \$5,859,097.51 of the total amount received this year.”

It would thus appear that the property of our deceased wealthiest citizens at least is contributing very substantially to the sup-

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<sup>1</sup>Vide Blakemore & Bancroft on "Inheritance Taxes".

<sup>2</sup>Chapter 483, Laws of 1885 in effect June 30, 1885.

<sup>3</sup>Chapter 215, Laws of 1891, as to Personalty. Real Estate first taxed to 1% class by Chapter 41, Laws of 1903, in effect March 16, 1903.

<sup>4</sup>Chapter 706, Laws of 1910.

<sup>5</sup>Chapter 732, Laws of 1911, in effect July 21, 1911, as amended down to 1915 by Chapter 664 of Laws of 1915.

port of Government in this State under this form of taxation. Perhaps this is a single exception to the popular conception that the burden of taxation bears heaviest on the poor man. Be that as it may, however, if what Mr. Chief Justice Cullen had to say in deciding *Matter of Keeney*, 194 N. Y. 281, was noticeable in the days when the rate of tax was 1% and 5%, it would seem as if the incentive to evade "death" taxes by lifetime transfers, should be a thousand-fold stronger under a law which is to-day so much more burdensome. Said the Chief Justice, at page 286:

"A not wholly unnatural desire exists among owners of property to avoid the imposition of inheritance taxes upon estates they may leave, so that such estates may pass to the objects of their bounty unimpaired.

IT IS MATTER OF COMMON KNOWLEDGE that, for this purpose, trusts or other conveyances are made whereby the grantor reserves to himself the beneficial enjoyment of his estate during life. Were it not for the provision of the statute which is challenged, it is clear that, in many cases, the estate on the death of the grantor would pass free from tax to the same person who would take it had the grantor made a will or died intestate. It is true that an *ingenious mind may devise other means of avoiding an inheritance tax*, but the one commonly used is a transfer with reservation of a life estate" (Aff'd in *Keeney v. New York*, 222 U. S. 525).

A transfer tax law that did not take cognizance of, and attempt to forestall this "not wholly unnatural desire among property owners", would be a sword with a dull edge. While, therefore, the primary purpose and spirit of our laws is to impose a tax on "death transfers", in order to properly effectuate that purpose, the New York Statute, as all such laws must of necessity do, includes many *inter vivos* transfers.

With the man who is both wealthy and generous enough to make absolute gifts of property during lifetime, the Statute has no quarrel. But it is the situation wherein the giver desires, so to speak, to tie strings to the gift, so that he or she may control and use the property given while living, and up to the moment of death, that the Transfer Tax Law seeks most comprehensively to compass.

It was to meet and combat this latter situation that the framers of even the first inheritance tax law in this State<sup>8</sup> enacted that provision of the law which imposes a tax on all transfers,

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<sup>8</sup>Chapter 483, Laws of 1885.

“By deed, grant, bargain, sale or gift \* \* \* intended to take effect in possession or enjoyment at or after death.”<sup>7</sup>

This section of the tax law has always been fruitful of litigation between the State and taxpayers. The litigation has been of a kind stimulative to the legal mind, for the reason that, beneath every case there have not only been the technical provisions of the tax law that have come up for discussion, but the broad underlying principles of the substantive law determinative of property rights.

Embraced under this head are cases of

- (1) Joint ownership of property with right of survivorship.
- (2) Trust deeds and trust savings accounts.
- (3) Alleged gifts lacking the element of good faith, or failing because not fully completed during lifetime.

### 1—Joint Ownership of Property with Right of Survivorship.

It is not possible to use any more specific legal term than “joint ownership” in discussing cases under this head, for the reason that, in most cases which have arisen, our courts, in passing on the taxability of property held in the joint names of persons, have had *first* to determine the true nature and quality of the ownership. In some cases, of course, the instrument which evidenced the transaction bore on its face the nature of the tenancy. Such, for instance, was the situation in *Matter of Heiser*, 85 Misc., 271, where the decedent and her surviving sister held property as joint tenants. This case lays down, what might be termed,

#### The Rule of Valuable Consideration.

It appeared that Sarah Heiser, the decedent, and her sister, Maria S. Heiser, who survived her, inherited some \$200,000 of property from one of their parents. They were equal owners of this property, and the deeds to the real estate and the instruments representing the personal property (bonds, mortgages, etc.) ran to them as *tenants in common*, at first.

Had this situation remained unchanged, at the death of either, one-half of the property transferred to the survivor by will or

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<sup>7</sup>The wording of the Statute of 1885 was amplified thus by subsequent amendments.

intestacy would have been subject to a transfer tax. But, as brought out in the testimony taken before the Tax Appraiser, these sisters desired to arrange their property so as to obviate the necessity, first, of making a will; second, of invoking the aid of the Surrogate's Court at all in settling the affairs of the one dying first. In other words, they wished to have neither an executor nor an administrator appointed. With this end in view, they consulted a firm of attorneys. There was evidence in the case that a very full and thorough discussion as to *ways and means of placing this property beyond the operation of the inheritance tax law* took place.

The attorneys finally advised the following method of procedure: The real estate, bonds, mortgages and other securities were transferred to a third person, a dummy, and this third person transferred back the entire property in various instruments to the two sisters as joint tenants, thus constituting a situation where each gave full consideration for the other's transfer.

When the case was submitted for the Surrogate's determination, the State Comptroller's Attorney, in his argument, laid much stress on his claim that this transaction was a deliberate and well-thought-out scheme to evade the Transfer Tax Law. To this contention the Surrogate responded:

"It is immaterial for what purpose the joint tenancy was created, as property may be transferred by gift *inter vivos* or for a *valuable consideration* and not be subject to the provisions of the Transfer Tax Law. It is only when it is transferred in the particular manner described by the Transfer Tax Statute that it is subject to the tax. A transfer effected in any other form, *irrespective of the motive which prompted it*, is not subject to the tax."

On the question of "valuable consideration", it is interesting to compare this decision with that in *Matter of Gould*, 156 N. Y. 423, where, in the case of a *transfer under a will*, the same plea of valuable consideration was urged as ground for exempting the transfer to Mr. George J. Gould of \$5,000,000. The codicil of Mr. Gould's father's will ran thus:

"My beloved son, George J. Gould, having developed remarkable business ability, and having for twelve years devoted himself entirely to my business, and during the past five years taken entire charge of all my difficult interests, I hereby fix the value of his services at \$5,000,000."

The Court of Appeals answered Mr. Gould's plea for exemption on the score of "valuable consideration" as follows:

"It matters not what the motive of a transfer by will may be, *whether to pay a debt*, discharge some moral obligation or to benefit a relative for whom testator entertains a strong affection, if the devise or bequest be accepted by the beneficiary, the transfer is made by will, and the State by the statute in question makes a tax to impinge on that performance."

The Heiser case was not appealed, and this question of valuable consideration when it supports a transfer "by deed \* \* \* to take effect at or after death" has never been squarely presented to our appellate courts. At first blush it might seem to have been passed upon in *Matter of Hess*, 110 App. Div. 476, aff'd in 187 N. Y. 554, but, on closer examination, it would not seem that the Hess case needed this ground for the determination reached. Moreover, in *Matter of Keeney*, *supra*, at page 286, the Court of Appeals remarks:

"It may be also observed that if the statute (the provisions under consideration here) is to be construed as applicable only to voluntary transfers or gifts, as to which we express no opinion" \* \* \*.

The question remains then whether, as matter of logic and principle, there exists any good reason why a differentiation should be made in the two classes of transfers: those by deed and those by will. The Supreme Court of the United States, in *Matter of Keeney*, *supra*, had this to say when arguments were addressed to it urging that a distinction be drawn:

"But the plaintiffs insist that there is a radical difference between an inheritance tax and one on transfers *inter vivos*. \* \* \*

But if any such distinction could be made between taxing a right and taxing a privilege, it would not avail plaintiffs in this case. \* \* \* The privilege of acquiring property by such an instrument is as much dependent upon the law as that of acquiring property by inheritance, and transfers by deed to take effect at death have frequently been classed with death duties, legacy and inheritance taxes." (*Keeney v. New York*, 222 U. S. 525; *Vide* also dissenting opinion in *Matter of Hess*, 110 App. Div. 476, citing *Matter of Green*, 153 N. Y. 223).

The Heiser decision has been discussed at length for the reason that it seems to make room for another question: How valuable, how adequate, and full, must consideration be to be "valuable"?

Must it, in the language of the street, be a "fifty-fifty" contribution by the parties concerned, or, in the case of a transaction between A and B, would a contribution by B of one-tenth, or any other disproportionate fraction, constitute "valuable consideration" so as to exempt a transfer of a million dollars of A's money to B at A's death? This opens a vast field of possibilities, a field in which the elements of "motive" may be the determining factor after all. Perhaps some light is shed on the subject in the following observation (*dicta*, though it be) of the Appellate Division.

"\* \* \* There might be a joint tenancy created which would be so obviously fraudulent in its inception as to take it out of the general rule."—(*Matter of Tilley*, 166 App. Div. 240, at page 243, *affd.* 215 N. Y. 702.)

It is, perhaps, in the case of joint savings bank deposits that the foregoing provision of our tax law has come up for consideration most frequently and insistently. As is natural, most of these have been cases of joint deposits between husband and wife. For many years there was a diversity of opinion in the Surrogates' Courts of the various counties of the State. There seemed a total lack of uniformity concerning the underlying rights of the respective depositors. Some cases went off on the theory of "convenience accounts", and the funds were taxed in their entirety. Other cases went on the presumption of equal ownership, and one-half of the funds was taxed. Others again were decided on the principle of *West v. McCullough*, 123 App. Div. 846, under which the entire fund deposited in the names of husband and wife passed to the survivor, and yet, one-half of the funds was declared taxable. Still another case, *Matter of Stebbins*, 52 Misc. 538, decided that, as the survivor took the entire fund by presumption of law (*West v. McCullough, supra*), no part of the fund was subject to tax.

These early cases<sup>8</sup> are now of interest only in that they serve as an illustration to the student of just how many angles a single legal proposition may contain, and how present the opportunity always is for some able mind, lawyer or judge, to discover the

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<sup>8</sup>*Matter of Stebbins*, 52 Misc. 438; *Matter of Graves*, 52 Misc. 433; *Matter of Kline*, 65 Misc. 446; *Matter of Von Bernuth*, N. Y. L. J. March 1, 1913; *Matter of Durfee*, 79 Misc. 655; *Matter of Spring*, 75 Misc. 586; *Matter of Pitou*, 79 Misc. 384.

basic reasoning and principle underlying a given controversy, and by nailing it to the mast of judicial thought, erect a beacon light for the guidance of those who theretofore groped uncertainly in mist and darkness.

*The Matter of Tilley*, 166 App. Div. 240, affd. 215 N. Y. 702, settled the question of Savings Bank accounts, and held that, as joint depositors were constituted joint tenants under section 144 of the Banking Law, the transfer by right of survivorship thereunder did not come within the meaning of "transfers to take effect at death". To the same effect is *Matter of Thompson*, 167 App. Div. 356, affd. 217 N. Y. 9, and *Matter of Dalsimer*, 167 App. Div. 365, affd. 217 N. Y. 10. These two latter decisions cover cases of mortgages and other securities.

This does not mean, however, that joint tenancies are now exempt from the transfer tax, for, almost simultaneously with the decision in the *Tilley* case, *supra*, the legislature proceeded to enact the following amendment to the Tax Law, which went into effect May 20, 1915:

"Whenever intangible property is held in the joint names of two or more persons, or as tenants by the entirety,<sup>9</sup> or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased tenant by the entirety, joint tenant or joint depositor and had been bequeathed to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant or joint depositor by will." (Par. 7, Sec. 220, added by Chap. 664 of Laws of 1915.)

This provision will undoubtedly give rise to some new disputes.

If the rule of "valuable consideration" laid down in the *Heiser* case, *supra*, is correct, and the joint tenants both contribute to the fund, no transfer tax will impinge on the transfer.

A second question that will no doubt arise will be in those cases where, for example, the funds are all contributed by the husband, and the wife dies, and *vice versa*. Are our courts going

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<sup>9</sup>See note, *post*.

to hold that a person should pay a tax on his own property placed jointly with another? Or is it going to be held that this section merely lays down a *presumption of ownership* which may be rebutted by proof of the fact that the deceased person transferred no property since he or she owned none? It may be that this question is answered in the comparatively recent observation of the Appellate Division in *Matter of Dana*, 164 App. Div. 417:

"The suggestion which has been made that if we hold this transfer taxable, we would have to hold the same as to all joint tenancies in personal property, or the further suggestion that if Seibert's interest in this stock becomes taxable upon Dana's death, if Seibert had died first, a like interest passing to Dana would have then been subject to taxation, is not correct. The latter could not be so, because Dana did not acquire his interest in the stock by 'gift' from Seibert, whereas Seibert did acquire his interest by 'gift' from Dana."

A third question that will, perhaps, be raised under this amendment, is whether its provisions are retroactive, and, since the respective rights of joint tenants are fixed and become vested on the creation of the tenancy, whether accounts started prior to May 20, 1915, are affected by the Statute. As negating this proposition, see *Matter of Pell*, 171 N. Y. 48.

The amendment of the law, *supra*, makes mention of "tenancy by the entirety", but, as in its opening sentence it covers "intangible" property only, and tenancy by the entirety relates only to real estate conveyed to persons who are husband and wife, and to no other species of property and to no other class of persons,<sup>10</sup> the provision referring to "tenants by the entirety" is so much surplusage and clearly misapplied.

Diligent search and inquiry have failed to disclose any early transfer tax decisions affecting tenancy by the entirety. There appears to have been no time in the administration of the tax law when an attempt was made to tax the transfer effected by this tenancy. In a recent case, however, *Matter of Klatzl*, 216 N. Y. 83, the Court of Appeals decided that at least one method of creating a tenancy by the entirety subjects one-half of the property to a transfer tax.

This Klatzl case seems to have been the first one of its kind in the State where the tenancy was attempted to be created in the manner accomplished. The deceased, Klatzl, owning certain

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<sup>10</sup>See Reeves on Real Property, Vol. 11, Sec. 688, page 975..

real estate in his own name, conveyed directly to himself and his wife as "tenants by the entirety" (without the use of an intermediary or dummy, which is the usual method in such a situation).

There are three opinions in this case, and it would seem as if two propositions of law were there decided: first, that the surviving wife took by survivorship, although Mr. Justice Bartlett did not definitely state whether as tenant by the entirety or joint tenant (and the weight of his opinion was necessary to decide both points); and, second, that one-half of the property under such a transfer was subject to taxation, Mr. Justice Bartlett likening the transfer to a case of a trust where the donor enjoyed the income during life, with remainder falling in at his death.

Inasmuch as without the vote of Bartlett, *J.*, in the matter of taxation, a different result would have been arrived at, the question may very well be asked: Is his theory sound? It would seem to the writers that, in the opinion written by this able jurist, a very fine and discriminating understanding of our tax law is disclosed. The ordinary tenancy by the entirety or joint tenancy is not taxable, because, when either of these tenancies is created by a transfer from a third person to a husband and wife, the real transfer, in a proceeding instituted either on the husband's or wife's estate, does not flow from either. It comes directly from the third person, whose estate is not in question. But in such a situation as existed in the *Klatzl* case, where the transfer came from the deceased husband, it seems clear that Mr. Justice Bartlett's conception that that portion of the real estate (one-half) from which the husband was entitled to the income and profit during his lifetime, was transferred to the wife at *Klatzl's* death for her beneficial enjoyment and use, is sound, and that he therefore properly voted for taxing such one-half as a "transfer to take effect at death."

## 2. Trust Deeds and Trust Savings Accounts.

The decisions affecting cases under this head seem logical and consistent. The question of "valuable consideration" appears never to have been raised in any of these cases, but, in view of the *Heiser* case, *supra*, there would seem to exist an excellent opportunity of raising it with effect.

As previously suggested, a case may very well be presented where A and B contribute \$1,000,000 and \$100,000 (or less) respectively, and convey to a trustee to pay the income thereof,

either in its entirety to A, or to both A and B in the proportions of their respective contributions, with the provision that, on the death of either, the trustee shall convey to the survivor. This or any similar illustration may be conceived. How will the plea of "valuable consideration" be met by our courts? By exemption, as in the Heiser case, *supra*, or by taxation, as in the Gould case, *supra*? As remembered, in the Keeney case, *supra*, our Court of Appeals "express no opinion".

The cases of Trust Deeds, concerning which there is left no room for doubt, are cases of *voluntary transfers*, where:

- (a) The donor reserves the income for his own use during life under an irrevocable trust:
- (b) The donor conveys the income to another, but reserves the right to alter, amend or revoke the instrument:

and still a third example, concerning which there exists only *dicta* (*Matter of Patterson*, post):

- (c) The donor conveys the income to another, but makes the payment of the principal inherently dependent on his (the donor's) death, irrevocable though the instrument may be.

Cases arising under (a) are the simplest examples of transfers to take effect at death that have been held taxable (*Matter of Green*, 153 N. Y. 223), and the law in respect thereto is now elementary.

It is now also well settled law that transfers coming under (b) are taxable, although *Matter of Masury*, 159 N. Y. 532 seemed, at one time, to have left the question in doubt. *Matter of Bostwick*, 160 N. Y. 489, following immediately, however, amplified and limited the effect of *Matter of Masury*. It is significant that the later cases have followed *Matter of Bostwick*, and the transfers held taxable. (*Matter of Patterson*, 146 App. Div. 286, aff'd 204 N. Y. 677; *Matter of Smith Ely*, 149 N. Y. Supp. 90; *Matter of Schermerhorn*, N. Y. Law Journal, June 26, 1913.)

It is important for the practitioner to bear in mind, in dealing with these two classes of cases that, in those arising under (a), the transfer is taxable under the law existing at the execution and delivery of the instrument (*Matter of Keeney*, 194 N. Y. 281, *supra*; *Matter of Weber*, 151 App. Div. 539; *Matter of Atterbury*, N. Y. Law Journal, March 25, 1913), while, in those cases found taxable under (b), the transfer is not complete until death, and

the property of the trust is to be added to the testamentary or intestate property of the donor, for the purpose of the increased rates, if the persons who take by the deed are the same persons as those taking by will or intestacy (*Matter of Dana*, 215 N. Y. 461).

There has been no adjudicated case that the writers have been able to discover where the facts suggested in (c) existed, but the analysis of the law of "transfers to take effect at death" by Mr. Surrogate Crosby in *Matter of Patterson*, 127 N. Y. Supp. 284, would indicate that, in his opinion, at least, a taxable transfer would be effected thereunder. Says the Surrogate, at page 286 of his opinion:

"I believe the authorities sustain the proposition that a trust deed giving all the income of an estate to the beneficiaries for life of the grantor and the corpus at the grantor's death, is, so far as the corpus is concerned, a transfer intended to take effect in possession and enjoyment at the death of the grantor, and therefore taxable. In such a case the beneficiary enjoys and possesses the income during the life of the grantor, but possession and enjoyment of the income is not possession and enjoyment of the principal which produces that income. It seems to me that the plain wording of the statute is sufficient to fix taxability on the entire corpus of the property passing by this trust deed, even if *the entire income derived therefrom* had gone to the beneficiaries from and after the delivery of the deed, because, by the terms of the deed, the corpus was intended to pass into possession and enjoyment of the beneficiaries at or after the death of the grantor."

The learned Surrogate also took occasion to point out what undoubtedly constitutes the inherent distinction between the Masury and Bostwick decisions, *supra*, thereby disclosing the limitations as well as the ability of the Statute:

"All that the Court in the Masury case decided was that the reservation of the power of revocation at any time during the life of the grantor did not mark the transfer as one intended to take effect at death. The Court was clearly right. The mere fact that death marked the ending of the period during which the power of revocation could be exercised, in no wise affected the evident intention of the grantor, as shown by the terms of the grant, that the *gift was to take effect on a day certain*.

The Court's decision was that the fund was not taxable, but it was not based upon the ground that the income went

immediately to the beneficiary, but was made to rest upon the answer to the question, 'whether they (the gifts) were in some manner contingent on the death of the said J. W. M.'" (Case aff'd 146 App. Div. 286, aff'd 204 N. Y. 677.)

From this analysis of the law it would appear that the only transfers which the provision of the Statute taxing transfers to take effect at death does not embrace, are gifts of both principal and income which pass into the possession of a grantee independent of the death of the grantor, or, at most, dependent on a contingency not inhering in the death of the grantor, such, for example, as when the grantee shall arrive at a given age. (*Matter of Masury, supra; Matter of Pierce, post.*)

Coming, lastly, under the head of Trusts, to accounts in Savings Banks. The first suggestion that there was a loophole in the law through which they might escape taxation, occurred in *Matter of Pierce*, 132 App. Div. 465. Up to that time, under the rule laid down in *Matter of Totten*, 179 N. Y. 112, that an account, say, in the name of A in trust for B, constituted, *prima facie*, a tentative trust, revocable at will and became effective only at the death of A with the fund undrawn, these accounts had been generally taxed. But, with this *Pierce* case as an entering wedge, it would seem, from the recent cases, that it takes comparatively slight proof (evidence of notice by A to B in the example cited, or that A made use of such expressions to A, as: "I have put this money in the bank for you; it is now yours". "I give it to you," or similar facts) to induce a holding that such accounts are exempt on the theory of *inter vivos* gifts. (*Matter of Reed*, 89 Misc. 632; *Matter of Batterman*, N. Y. Law Journal, Nov. 24, 1915; *Matter of Brennan*, N. Y. Law Journal, Dec. 1, 1915.)

### 3. Alleged Gifts Lacking the Element of Good Faith, or Failing Because Title was not Vested During Life.

Most of the cases coming under this head are cases presenting questions of fact, in which the good faith of the transaction is in question, and where, because it is determined that no intention to make a *bona fide* gift ever existed, courts have held the transfers taxable. Very often, in cases of this kind, the transfers are not taxed as "gifts intended to take effect at death", but as property of the decedent passing into his estate by reason of the failure of the *inter vivos* transfer. A fair example of this class of transfers is contained in *Matter of Dobson*, 73 Misc. 170, where the Surrogate of an up-state county had this to say:

"The whole transaction looks to me like a varnished attempt to evade the transfer tax law. It was not a *bona fide* sale for a consideration, but a gift by deed of \$80,000 worth of real estate for such companionship and care as Thomas (the grantee) might feel equal to. Dobson (the decedent) sold the cow, but *hung on to the tail and the milk*. On the evidence in this case, the title of Thomas was as fruitless and barren as was Samson's mother before the Angel called. The woman with every other requisite awaited the germ of life; so Thomas sat on the sands of a barren title, awaiting Dobson's death for full fruition."

Quaintly humorous and homely language this, redolent of the soil and reaching back into biblical history, yet expressing to a nicety in forceful imagery the talon-like grip with which the Transfer Tax Law lays hold and imposes its burden on transfers which, while claiming to be absolute gifts or sales for consideration, are, in reality, lacking in good faith and tainted with the "after-death" purpose and spirit. Viewed in this light, *motive* is all important.

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