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Articles

BEQUESTS FOR MASSES: DOCTRINE, HISTORY AND LEGAL STATUS

Nicolas P. Cafardi 403

A bequest for Masses is a testamentary gift to a Roman Catholic religious agency, coupled with a request that Masses be celebrated on the decedent's behalf. English courts during the Reformation voided bequests for Masses as illegal and superstitious. Modern courts generally hold them valid as charitable trusts, although poorly drafted bequests can run afoul of state Mortmain, lapse and charitable trust statutes. The author examines the checkered legal history of bequests for Masses and concludes that problems often arise because courts may not understand that a bequest for Masses is not payment for religious services to benefit one person.

THE CONFRONTATION CLAUSE, THE RIGHT AGAINST SELF-INCRIMINATION AND THE SUPREME COURT: A CRITIQUE AND SOME MODEST PROPOSALS

David E. Seidelson 429

The impact of Supreme Court decisions on fifth and sixth amendment rights of the accused criminal is the subject of Professor Seidelson's most recent quest into the field of constitutional law. Using the Court's most recent decision on the sixth amendment confrontation clause as a vehicle, he examines the development of the clause over the past two decades and concludes that the Court's decisions have rendered the clause virtually coextensive with the hearsay rule. In a second part of the article Professor Seidelson discusses the effect of the Court's refusal to include physical evidence within the scope of the fifth amendment right against self-incrimination, illuminating the problems and difficulties to which this approach may give rise. The article concludes with suggestions for restoring the fifth and sixth amendment rights to an interpretation that is closer to that which the author believes was originally intended.

Comment

WITH STRINGS ATTACHED: FEDERAL INCOME TAX CONSEQUENCES TO DONORS OF CONDITIONAL GIFTS

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Because giving a gift involves tax consequences to the donors, they have made various successful attempts to shift the tax burden to the recipients. The author examines the question whether the amount of gift tax paid by a recipient in this case nonetheless should be considered part of the donor's taxable income to the extent the tax exceeds the donor's basis in the gift property. After reviewing the basic approaches in the federal courts for answering the question, he suggests an approach he believes best reflects the policies underlying the Internal Revenue Code and existing case law.

Recent Decisions

CONSTITUTIONAL LAW—COMMERCE CLAUSE—STATE TAXATION OF INTERSTATE COMMERCE—SUPREMACY CLAUSE—*Commonwealth Edison Company v. Montana*, 453 U.S. 609 (1981).

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Book Review

THE MORAL DECISION; RIGHT AND WRONG IN THE LIGHT OF AMERICAN LAW

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