

Zhang C-Read Notes
The Forgotten Attribution Power
March 13, 2025

■ **Rotopooler** —

- Overall positive recommendation
- Article reconstructs attribution doctrine as justifying Congress's taxing power
- Doctrinally-grounded defense of power to tax the wealthy
- Writing was organized and professional, strongly-argued
- Potentially impactful at the Supreme Court
- Tax subject matter, but not as niche as some
- Clear contribution

■ **M-Reader** —

- By and large pretty positive; deserving of a C-Read
- Committee needs to have certain high-level conversations
- Could be a top-five tax article in a 3–5 year window
- Strengths —
 - Well-executed; high-level legal argument about wealth tax
 - Historical overview was well done
 - Timeliness with policy discussions; wide-range of views where the policy discussion is at right now
- Weakness —
 - Policy implications could use more development
 - Could have done more engagement with certain main doctrine; would help reader understand the context (at least, in a general interest law review); could have put the doctrines in parallel
 - Intersection of tax and constitutional law makes the scope pretty narrow; unclear whether tax law scholars care that much about IRS and constitutional issues, and unclear whether constitutional law scholars care that much about tax issues
- Preemption —
 - No real plagiarism concern
 - There's been some stuff about realization doctrine, though this is a more creative approach

■ **Committee Comments** —

- AC Member #1:
 - Thinks we have too many Yale JDs and not enough Black and Latino/Latina authors
 - But that we shouldn't be checking a box; just something to be mindful of
 - Substantively, feels a little bit like a case comment
 - Bar for excitement is much higher now since we have more article
 - But the fundamentals of the piece is good
- AC Member #2:

- Thought the piece was very readable
 - Thinks some issues can be fixed at P-Read
 - Hold up right now is that it is too descriptive
 - Thinks that narrow scope is okay; not a ding that feels like a case comment — narrow pieces can have a big impact
- AC Member #3:
 - Loves tax law, but doesn't think this clear the bar
 - We already have lots of theoretical examination
 - So let's be careful about the style of argument compared to what we already have accepted
 - On policy implications, potential for redistributive tax policy is the most exciting part, but the piece is not really delivering here
 - Thinks we need to be careful about sending to O-Read because faculty are going to maybe give overly positive reviews mainly because of the subject matter; not because of quality
 - Likely a no
- AC Member #4:
 - Likely to abstain
 - We should never be considering races of Authors or the schools they attended
- AC Member #5:
 - Not like tax
 - Probably a no
- AC Member #6:
 - Likes the piece; it's pretty solid
 - Better than some of the stuff we've already published
 - Clear implication of the piece on the tax/constitutional issues which could influence congressional legislation
 - Not sure that excitement is at [omitted] doctrine levels
 - Not too concerned about the comment that the piece reads like other pieces we've accepted — people don't read the volume like a magazine!
- **Open Discussion** —
 - Two AC Members:
 - Disagreement about the applicability of the [omitted] doctrine to tax pieces
 - There might not be many tax pieces that hit that level of excitement
 - AC Member:
 - Loves tax, so thinks the excitement metric could matter
 - AC Member:
 - Worried about sending something to O-Read for which no one on AC will go to bad
 - AC Member:
 - Would be happy to set the table for the piece at O-Read and let the body decide for itself
 - AC Member:

- Likes the piece, wants to see a tax piece; but wants to see the piece have more practical impact
 - Right now, we feel very theory and history heavy
 - Every theory article we publish is one less opportunity to publish something that matters on the ground
- AC Member:
 - Is the practical consequence of showing constitutionality of wealth tax enough?
- AC Member:
 - It has practical impacts, but *Moore* was rare case to get cert; don't want to bank too much on a case like that getting taken up
 - Other pieces could have a much more direct and immediate impact
 - Likes the piece; it should be published; but probably not before the other things that we could publish
- AC Member:
 - True, the Articles are the key thing we do
 - But if there are things we want to see . . .
 - Notes?
 - Forum?
 - There are other ways to make sure our pages reflect certain underrepresented ideas / arguments
- AC Member:
 - Appropriate to think about the Volume as a whole, not each individual thing
 - This is why we should think about diversity — we have a bunch of people who went to Yale and did appellate clerkships, and that is reflected in the type of thing they published
 - So we should be considering what people did professionally so that we can get types of pieces that, e.g., only practitioners would write
- AC Member:
 - Switching to a “yes” since people seem to be positive on the merits
 - Thinks we should be thinking about having too many Yale people
 - But we've already sent a lot of diverse authorship pieces to O-Read and they've been failed
- AC Member:
 - Doesn't want to send pieces that don't deserve to go forward because of diversity
 - But we should be cognizant of this
 - Some of the punishing later articles for what is already published because it's just part of the nature of the rolling articles process
- AC Member:
 - We can be more discerning at this stage, and maybe we have an obligation to be more discerning at this point
 - A lot of people think that when we send something to O-Read it means we like it

- And then people don't show up and just vote yes absentee because they are a little checked out
 - = meh pieces make it through
 - Also, world is changing — so we should preserve our freedom of movement for interesting stuff to come through in August
- AC Member:
 - Part of what makes this difficult is how much turbulence we have
 - Makes it hard to get articles with immediate impact when we have a 1-year publication timeline
- AC Member:
 - Disagrees that practical implications cannot be done
 - Might make timeliness difficult
 - But doesn't mean we cannot get stuff that impacts real-world people
- AC Member:
 - POI to AC Members who like the piece: would you speak up at O-Read?
 - → AC Member: would use a hand to set the best framing for the piece; would soft advocate but would stop short of saying that we have to take this piece
 - It's better than mid!
 - → AC Member: not sure it's the piece the Member wants *right now* but some people might be waiting for this piece to come along
- AC Member:
 - We are here to represent members
 - But we are also here to exercise independent judgment
- Editor:
 - “Better than mid” is not a stellar endorsement
 - Can it become great through our process?
 - There will be great articles over the summer and in August
 - And we can also solicit
 - If there are not great articles, we should reject
- AC Member:
 - Better than the Bradley & Grove piece
 - Could be as good as the *Federalism* piece

VOTE: 4 no -3 abstain - 1 yes