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Book Review

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A cartoon by the famous cartoonist Norris which was published in The Vancouver Sun shortly after the introduction of Bill C-259 in 1971 showed a number of officials gathered around the former Minister of Finance, Mr. Edgar Benson, and the caption on the cartoon was as follows: “A magnificent political achievement sir . . . . a tax system no one, not even you, can understand and therefore only you can explain.”

In his book The Income Tax Law of Canada, Mr. Arthur R. A. Scace demonstrates that he, together with Mr. Benson, can explain the intricacies of the new income tax law. Because of the limitations of space, Mr. Scace has only been able to “scratch the surface” of the Act, but in doing so has managed to capture the most important aspects.

The basic material for the book was prepared for presentation in The Law Society of Upper Canada programs on the Tax Reform Bill and for use in the Bar Admission course during the 1971-72 session. As a result, the book is basically a teaching book and its structure and continuity are such that the student will in effect use each chapter as a stepping stone upon which to build his tax knowledge.

The author proceeds from the basic liability for tax discussion in chapter one to the concepts of income for tax purposes, the method whereby income is computed for tax purposes, the deductions permitted and the averaging allowed, the aspects of the revolutionary introduction of “capital gains” taxation into the Canadian tax system, the complexities of the taxation of corporations and their shareholders and the attempt by the drafters of the Act to provide for “integration”, and then proceeds into a number of chapters dealing with the tax aspects of ordinary commercial problems, namely the buying and selling of a business, estate planning and the use of trusts, taxation in real estate, partnerships and professional income and eventually the assessing procedure and the rights of the taxpayer in appealing against reassessments.

While basically a teaching book, the book is particularly useful to the busy practitioner who wishes to obtain a quick, concise, overall view of the new tax system with the aim of recognizing the problem areas which necessitate research at that time.

The book suffers from two basic defects. (1) A hard covered manual on income tax is immediately “suspect” as being out of date, a defect not
present in a loose-leaf service. In fact Mr. Scace’s comments in some cases have been affected by the recent Budget Resolutions. Mr. Scace indicates that this problem is to be overcome by the publishing of “an annual edition of the book which will take into account new cases, amendments to the Act and other developments in the income tax field.” (2) The high cost of $25 per volume (a special student price of $12.50 has only recently been authorized). A book which must be purchased annually in order to be up-to-date should have a much lower cost.

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Those lively publishers, Butterworths, have given us another in their Canadian Legal Studies Series. (“Lively” and “given” are relative terms of art, but let it pass). Canadian law has suffered from a sad lack of doctrinal writing. For a while in the nineteen-sixties, it looked as if Canadian legal studies would make a permanent leap from a cringing reliance on the black-letter law of Halsbury’s Laws of England to a total absorption in the sociological functional approach. The Butterworth series is an attempt to provide a stepping-stone across that leap and the experiment has been a success.

These volumes are most handsomely produced. The type-face is attractive. Even the table of cases causes no eye-strain and there is an adequate index (which is all too rare). The quality of writing is a tribute to the editor. I particularly liked Professor Hughes’ style. One essay, which will not be identified, lacks this felicity of style. Will that writer, and many other legal writers, please forswear the use of introductory phrases starting with “It is submitted”, “It must be perfectly plain”, “It might also be thought”, “It is interesting to note”, “It is a curious fact”, “It is not suggested”, “It would seem self-evident”, etc. It is submitted that they add nothing.

I have not carried out a consumer survey but I would imagine that practitioners will find these volumes useful reference works. Most of the authors have attempted to give a comprehensive summary of the law on their chosen subject. Of necessity, some of these are rather pedestrian because they are glorified casenotes or descriptive catalogues of statutes. The better ones have provided us with a useful summary of the law and yet have not neglected the need or possibilities of reforms. The best example of this approach is Professor Cullity’s essay on “Property Rights During the Subsistence of Marriage”. (Vol. I pp. 179-281). I have absolutely no experience on this subject and yet, for instance, I found his discussion of community of surplus in resolving problems of matrimonial property most illuminating and very interesting. He states the problems and possibilities of reform in a most engaging way. In discussing criteria for the judicial distribution of property