

REVIEWS AND NOTICES

Refresher Course Lectures: Arranged by the Law Society of Upper Canada for its Members of the Armed Forces. Toronto: Richard de Boo Limited. 1945. [Two Volumes. Pp. xiii, 447 and xiii, 479. (\$17.50)]

Apart altogether from their intrinsic merit, these two volumes are a monument to a notable cooperative effort by the legal profession of Ontario. They should encourage the Cassandras, not all of them laymen by any means, who have been expressing doubts about the profession's sense of corporate responsibility. Perhaps there is hope for us after all.

As long ago as October, 1942, the Law Society of Upper Canada appointed a Special Committee on Wartime Educational Services, with Mr. W. J. Beaton, K.C., as chairman and Mr. W. Earl Smith as Secretary. One of the Committee's projects was the Armed Forces Letter, sent regularly to all student and graduate members of the Society on active service. This reviewer happens to know how welcome were these breezy accounts of the law and its personalities, each number a reminder of a saner and more normal life. Another project was a course of refresher lectures for graduate members of the Society who had been on active service or engaged in war work. The course was given in October of last year and extended over a period of four weeks. The seventy-two lectures delivered by sixteen honorary lecturers during the four weeks are reprinted in these two volumes.

The Committee quite rightly did not attempt a long review course. Most of the 800 odd graduate lawyers from Ontario who served in the armed forces or on special war work do not need to re-learn their law; all they need is to be "refreshed". The immediate task was to assist them as efficiently and quickly as possible in their readjustment to the practice of law. A great many of them had gone into one of the services immediately upon graduation or very soon afterwards; they had been deprived therefore of their apprenticeship in practice. The majority of the remainder had been away from their profession for from three to six years at a time when important changes were taking place in the law.

Any refresher course had necessarily to take account of a number of factors. It had to supply the missing apprenticeship, in so far as lectures can do so, and at the same time summarize the more important developments during the past few years. It had to be directed to men who would be arguing cases in court as well as advising clients from an office chair. It had to have something of value for the member of the large city firm and the "family lawyer" practising on his own.

Each in its own way, these refresher course lectures achieve admirably what they set out to do. No review could hope to evaluate each one of them critically, even if it were appropriate to make the attempt. An even and proper balance has been maintained between substantive and adjective law: on the one hand, there are lectures on municipal law, divorce, labour legislation, the Highway Traffic Act, dangerous premises, dangerous things, the criminal law relating to motor vehicles, succession duties, rental control, real property, corporation law and income tax; and, on the other,

surrogate court practice, examinations for discovery and preparation for trial and for appeal, recent changes in practice, surrogate court forms, foreclosure practice, criminal procedure and trial practice.

Catalogues are dull things at best, but this review should not close without listing the honour roll of the lecturers: G. W. Adams, K.C.; F. A. A. Campbell, K.C.; C. F. H. Carson, K.C.; J. R. Cartwright, K.C.; Professor Jacob Finkelman; H. W. A. Foster, K.C.; Hon. F. J. Hughes, K.C.; A. H. Ingram, K.C.; A. S. Marriott; G. A. Martin, K.C.; L. A. Richard, K.C.; Gordon N. Shaver, K.C.; Wishart F. Spence; John C. Thomson, K.C.; J. S. D. Tory, K.C.; and Professor John Willis. The results prove the time and thought that each of them has expended on his contribution.

The BAR REVIEW offers its sincere congratulations to the organizers of the refresher course, to the lecturers, and to the printer of these two volumes. The volumes will be of great value to the more than a thousand ex-servicemen of Ontario to whom, without charge, they have already been distributed. To the Law Society of Upper Canada are also indebted the lawyers of the other provinces, which for one reason or another have been unable to organize refresher courses of their own.

G.V.V.N.

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Dominion of Canada Income War Tax Act: Including Excess Profits Tax, Canadian-U.S. Tax Treaty, Tax Withholding Schedules. Montreal and Toronto: CCH Canadian Limited. 11th edition. 1946. Pp. 239. (\$1.25)

1946 CCH Canadian Master Tax Guide. Montreal and Toronto: CCH Canadian, Limited. 1946. Pp. 196. (\$3.00)

The latest editions of these excellent guides to the mysteries of the Income War Tax Act and The Excess Profits Tax Act, 1940, maintain the high standards set by the publishers and should continue to satisfy many of the needs of those engaged in the preparation of income tax statements for both individuals and corporations.

The books also serve to highlight the need for a complete revision of the Income War Tax Act in order to provide a statute that will, in general, be intelligible to the average taxpayer without benefit of legal and accounting counsel. The absence of any certainty in the present act as to what tax a business may have to pay makes a compilation of such official regulations and interpretations as are available especially useful. Unfortunately most of the decisions and rulings of the National Revenue Department are still known only to the officials, while the Minister of National Revenue is left to assess taxes on the earnings of the millions in his own sublime discretion and without any right of appeal to an independent tribunal by the humble subject.

The first of the above-mentioned publications contains the texts of the Income War Tax Act, The Excess Profits Tax Act and the latest Reciprocal Tax Convention between Canada and the United States. The schedules of tax deductions to be made by employers on salaries and wages are also included. The booklet is especially valuable, however, for its

notations on each section in the acts with references to the legislative provisions applicable in other years and since replaced or amended.

The CCH Canadian Master Tax Guide is a supplement and a handy reference to the more detailed loose-leaf CCH Canadian Tax Service. The guide is, however, useful in itself in enabling a taxpayer to find out quickly the law and relevant interpretations of present tax legislation grouped under convenient subject headings.

Both publications cover all amendments to the tax Acts to the end of 1945 and are well indexed.

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The Effect of War on Contracts. By GEORGE J. WEBBER. London: The Solicitor's Law Stationary Society, Ltd. Second Edition. 1946. Pp. lxxviii, 802. (£3 17s. 6d.)

This is the second edition of the work so deserving of the many favourable reviews that greeted the appearance of the first edition in 1940. Dr. C. A. Wright, in reviewing the first edition, felt that the book marked a significant turning point in English legal writing for the reason that it was a practitioner's book full of critical examination of English judicial dicta, bolstered by reference to American as well as English academic writing.¹ A similar originality marks the present edition. The author has not been content merely to add to the text of the first edition references to the cases decided during the past five years, but has entirely rewritten large portions of the original text and has added a new section comprising one-third of the book.

This work should not be regarded as an "emergency book", the need for which has passed with the ending of the war. The two first parts of the work—Part I dealing with War; Emergency Powers and Enemy Character, and Part II with War and Commercial Contracts—are perhaps of transitory importance, though the extension of Emergency Powers, in Canada as well as in England, and the settlement of claims arising out of the war will render them invaluable to the practitioner for some time to come. Under Part I the questions of the duration and termination of the war and of the scope, construction and effect of Emergency Powers are dealt with fully and are of particular value today. Under Part II, nine types of commercial contracts are considered, of which the following may be mentioned: Sale of Goods and the British Price Control Acts; Insurance of Property, including War Risks; and Contract of Service, including the Essential Work Orders, Seaman's Contract of Service and the British Reinstatement in Civil Employment Act. The last half of the book—consisting of Part III, Frustration of Contract, and Part IV, Effects of Frustration—is a scholarly and practical treatment of a question that is of continuing importance. It is the author's critical analysis of the decisions as well as his treatment of academic literature, English, American and Dominion, on this difficult question that makes the book invaluable to the practitioner. This is the portion which has been largely rewritten and, while the author deals with frustration arising out of the war, the basis upon which the

¹ [1941], 19 Can. Bar Rev. 224.

doctrine in general rests has been examined fully and critically. The cases in which contracts have been frustrated and those in which no frustration occurred are dealt with under various sub-headings facilitating ease of reference; *The Constantine Case*,² with reference to the onus of proof in frustration, is discussed in a separate chapter. The material gathered together and the careful analysis of that material will be of great value in all cases of frustration, whether or not arising out of war.

In the last report, the new principles contained in *The Fibrosa Case*,³ in the Report of the Law Revision Committee and in the Law Reform (Frustrated Contracts) Act, 1943, are discussed.

This edition contains a table of American cases, formerly combined with the main table of cases, and a list of abbreviations, rendered necessary by the author's wide use of periodicals and reports not usually found in English texts. The table of cases, excluding American cases, shows cases from the Dominions in italics and indicates in heavy type the pages on which the main discussion of the important cases may be found. The bibliography has been greatly expanded and recast under the various headings in the text and forms a valuable guide for students and practitioners who may wish to examine more closely the material on any topic.

The use of smaller type, thinner paper and narrower margins has enabled the publishers to compress an edition three times as large as the first into a volume considerably less bulky and more readable.

Mr. Webber is to be congratulated upon having fulfilled the high promise given by the first edition. His work will make a valuable addition to any library.

G.S.C.

² [1942] A.C. 154.

³ [1943] A.C. 32.

FOR THE DEFENCE

I grew to like to defend men and women charged with crime. I sought to learn why one man goes one way and another takes an entirely different road. I became vitally interested in the causes of human conduct. This meant more than the quibbling with lawyers and juries, to get or keep money for a client so that I could take part of what I won or saved for him: I was dealing with life, with its hopes and fears, its aspirations and despairs. With me it was going to the foundation of motive and conduct and adjustment for human beings, instead of blindly talking of hatred and vengeance. (Quoted in Irving Stone: Clarence Darrow for the Defense Doubleday, Doran & Company, 1941, p. 90)