

## REVIEWS

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FEDERAL INCOME TAXATION CASES AND MATERIALS. By Boris I. Bittker. New York: Prentice-Hall, Inc., 1954. Pp. xvi, 896. \$9.75.

THE subject of Taxation was introduced in American law schools thirty years ago. Total federal tax receipts in the Twenties had declined from the World War I years; and it did not then seem possible that within two decades the needs of the Government would cause those receipts to be multiplied more than ten times, and expenditures to be multiplied more than thirty times. Nevertheless, the course early attracted many students, probably because it held the mirror up to various fascinating aspects of flourishing American business. Taxation had an obviously direct connection with actual business life; and so it soon gained a place in law school curricula along with such other new courses as Corporation Finance, Trade Regulation and Labor Relations.

Today there are plenty of taxation casebooks, and the course is taught everywhere. The problem now is not whether it should be taught, but how. How much time can be allotted to the whole subject? Shall the problems of state and local taxation be considered, as well as all the federal problems? Where shall the emphasis be placed: upon the fundamental nature of income, for example; or upon the numerous major practical problems a tax lawyer meets every week—reorganizations, pension trusts, estate planning?

The number of possible topics and the volume of material is now so very great that the construction of a casebook and the teaching of a course is very difficult. Further, the author or teacher will always feel a great sense of inadequacy; for beyond all the legal materials lies a great wealth of economic writing; and beyond all the American material, legal and economic, lies a vast amount of English and Continental writing and decisions and administrative experience.

Professor Bittker has chosen to present materials only on federal income taxation, by all odds the first tax in volume of receipts, in wealth of decisions, and in impact upon business and social life. His book, essentially a well-annotated casebook with plenty of excerpts from articles, Bureau rulings, committee reports and other relevant data, is large, handsomely printed and bound, and well edited. The breakdown of topics in the table of contents is such that the teacher and student will quickly see the direction of the course; and the teacher can readily pick a different order of presentation of topics if he wishes to do so.

Professor Bittker's proposed course is three or four semester hours in the second year. There is so much material in this book that the teacher would need to be very well educated indeed to select what could be presented in that

time and to preserve unity, coherence and emphasis in his presentation. Indeed, one serious question is whether the casebook does not devote too much space to the minutiae of federal income taxation, and so not enough to the major propositions that are actually about all a student can be expected to take away with him. Professor Bittker was, of course, aware of this problem, and his inclusion of a generous amount of tax minutiae was the result of conscious decision. In his view, no "survey" treatment could sufficiently convey the essential spirit and flavor of income tax law.\*

Presumably this tax course would be the student's first course in the subject. What does he need to learn first? Probably what is the nature of income, the concept of income developed by our courts. Professor Bittker offers him "some characteristics of income" and then, by way of contrast, "non-taxable items." He divides the following chapters into: The Individual, Non-Business Taxpayer, and The Business Taxpayer. The succeeding major divisions are: The Splitting of Income; Capital Gains and Losses; The Corporation and Its Stockholders; Accounting and Income Taxation; and Tax Practice and Procedure. Not everyone will agree with the order, but it can easily be changed by any instructor.

The casebook as a whole exhibits the editor's broad acquaintance with the materials, and his skill in annotating them well. The book is fully up-to-date and keyed to the 1954 Code, last year's wholesale revision of the internal revenue laws; and many of the more significant changes made by the new Code are indicated and explored. Plainly, a tremendous amount of work went into this book. An industrious and well-informed teacher of taxation will find here a wealth of materials for his use.

ROSWELL MAGILL†

GOVERNMENT BY INVESTIGATION. By Alan Barth. New York: Viking Press, 1955. Pp. 231. \$3.00.

FROM his vantage point as an editorial writer on the Washington Post, Alan Barth has had a ringside seat to observe and to reflect deeply upon congressional investigations running wild. The fruits of that reflection are contained in this compact and perceptive analysis of legislative usurpation of power.

Accounts of the abuses of legislative investigating committees are no longer novel.<sup>1</sup> Mr. Barth's contribution is in his concentration on the direction, rather than the methods, of current investigations. He is justly alarmed at three

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\* P. vii.

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1. See BARRETT, *THE TENNEY COMMITTEE; LEGISLATIVE INVESTIGATION OF SUBVERSIVE ACTIVITIES IN CALIFORNIA* (1951); CARR, *THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES, 1945-1950* (1952); COUNTRYMAN, *UN-AMERICAN ACTIVITIES IN THE STATE OF WASHINGTON; THE WORK OF THE CANWELL COMMITTEE* (1951); GILLMORE, *FEAR,*