

look to the common law or to the *lex domicilii* to determine the formal validity of the marriage. Secondly, Dr Pryles states in his own words the effect of part of section 10 of the Marriage Act 1961-1973 (Cth) (page 39). In view of the detailed discussion which is devoted to so many of the topics dealt with in the book, it is surprising to find that nowhere are the provisions of section 10 set out, nor is there any discussion of the meaning of paragraph (2)(b) thereof, which is not generally regarded as being entirely free from doubt. Thirdly, this reviewer would have welcomed further elucidation on the meaning of section 104(8) of the Family Law Act than the scant paragraph devoted to it (page 109). In particular, one would be interested to know whether sub-section (8) applies to the grounds of recognition set out in section 104(3)(b) and (e), and what is the combined effect of section 104(2), (3)(d) and (8).

It must be confessed that at times the style of writing tends to strike a jarring note. In the Preface, for instance, it is said that the Family Law Act makes "novel changes" to the law, and brings in "new innovations". Another comment, relating both to style and to substance, is that Dr Pryles writes:

A literal reading of [section 42(2) of the Family Law Act] indicates that it is primarily designed to enable reference to be made to the laws of another country (page 18).

The wording of section 42(2) is:

Where it would be in accordance with the common law rules of private international law to apply the laws of any country or place (*including a State or Territory*), the court shall apply the laws of that country or place [*italics added*].

One would have thought that a literal reading of this provision indicates that it permits reference to be made to the *lex fori* when a State court is seized of a matter under the Family Law Act.

For all these minor quibbles, the conclusion arrived at on reading this book is that it is highly successful in setting out a wealth of detail on the conflicts rules relating to marriage and divorce. Such a book is certainly necessary with the coming into force of the Family Law Act, and Dr Pryles is to be congratulated on fulfilling that need so ably.

J. L. R. DAVIS\*

*Principles of Income Taxation* by REGINALD BARRETT, B.A., LL.M. (Syd.); a Solicitor of the Supreme Court of New South Wales, formerly Lecturer (Part-time) in Income Tax at the University of Sydney. (Butterworths, 1975), pp. i-xx, 1-236. Paperback, recommended retail price \$10.50 (ISBN 0 409 45790 6).

A student approaching the law of income tax in Australia for the first time finds that the main object of his or her study is a large, comprehensive and sometimes complex piece of legislation called the Income Tax

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\* Reader in Law, Australian National University.

Assessment Act 1936-1976 (Cth) (the Act), which is subject to frequent amendment and growth because of the effect of judicial decisions and the desires of successive Governments to reduce the opportunities for avoidance and evasion or to implement changes which may or may not be consistent with the basic principles of income tax upon which the legislation is based. The student will discover that the study of the various provisions of the Act has to be complemented by an examination and understanding of a large volume of case law if the meaning and effect of those provisions are to be properly comprehended. There are some excellent references available to assist in this task. These generally take the form of setting out the sections of the Act in numerical order (or groups of related sections) followed by a detailed commentary. However, the student can soon become lost in detail, and will fail to view the different elements of the law in their proper perspective without a background knowledge of the scheme of the Act and of the established principles upon which its main provisions, and many of the judicial pronouncements encountered in the field of study, are based. Such knowledge can be difficult to come by without detailed study and research, but Mr Barrett's book offers students (as well as practitioners) a concise but reasonably comprehensive point of reference for this purpose.

The book does not claim to be exhaustive in its coverage, and much of the material it contains covers ground that will be familiar to practitioners, and to some extent students who have had a preliminary look at other works on Australian income tax. However, the reader has the benefit of the author having brought together the essential principles, as up-dated by developments in the law up to the time of publication (April 1975), in a straight-forward and comprehensible form.

His work does not follow the order of the Act, but rather deals with various topics under main headings, with appropriate references to sections of the legislation and decided cases being included in the body of the commentary and discussion of each topic. It must no doubt have been a problem for the author (because of the nature of the subject with which he deals) to devise the order of presentation of topics, but bearing in mind that the book is intended primarily for students, he is to be commended on the logical sequence that has been adopted.

The book deals firstly with the basic notions of income, the criteria for determining the amount which is made subject to tax and the various categories of taxable entities. It proceeds with a discussion of the fundamental distinctions between assessable and non-assessable receipts and deductible and non-deductible outgoings, according to general concepts and to specific provisions of the Act. There is an interesting and enlightening summary of the meaning attributed to the terms "derived" and "incurred" as they appear in the Act in different contexts, and of the relationship between accounting for income tax purposes and for other purposes. The special rules applicable to the taxation of trusts and of partnerships are neatly summarised. The taxation of companies and their shareholders is dealt with but perhaps a little sparsely for this most important topic. It is perhaps regrettable that here, as in certain

other parts of the book, not enough emphasis has been given to the reasons for the legislative scheme being such as is described. For example, although the anti-tax avoidance provisions are referred to briefly in the final chapter, it would have been more enlightening for the student if references had been included elsewhere in the text to tax avoidance practices which form the background to the comprehensive tests which apply to determine whether a company is a private or public company for income tax purposes, and which have given rise to various discretions being vested in the Commissioner of Taxation by the legislature in recent times.

References to judicial authority are generally appropriate for a book of this nature, although there appears to be an over-emphasis on United Kingdom cases early in the book. This is understandable, nevertheless, for a work which canvasses in part the historical development of the Australian income tax law, and it probably serves the purpose of operating as a reminder to the student that, despite differences in the scope and terminology of the relevant legislation, decisions of United Kingdom courts on matters of taxation principles and concepts continue for the most part to provide authoritative references in relation to Australian income tax law. It is a little unfortunate that some important decisions handed down later in 1975 were not available for inclusion in the commentary on certain topics, for instance, the Full High Court's decision in the *Steinberg* cases<sup>1</sup> and their implications in relation to the future application of section 26(a) of the Act. But the book impresses as continuing to provide a convenient insight into the scheme of the Act and the principles upon which the law of income tax is founded despite these and other later developments.

K. T. ALLEN\*

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<sup>1</sup> *Steinberg v. Federal Commissioner of Taxation* (1975) 50 A.L.J.R. 43; (1975) 7 A.L.R. 491; (1975) 75 A.T.C. 4221.

\* LL.B. (A.N.U.), A.A.S.A. Lecturer (Part-time) in Taxation at the Australian National University.