

LAW AND CONTEMPORARY PROBLEMS

VOLUME VIII

SUMMER, 1941

NUMBER 3

FOREWORD

Federal and state taxation of income, state and federal exactions on business enterprise, state and local taxation of property, and federal and state duties on successions, gifts and transfers—all these forms of modern taxation have in recent years received attention ranging from the most elaborate to at least a satisfactory minimum. Not so with those taxes which, measured either by physical volume of goods flowing into consumer hands, or by consumers' money outlay, fall more upon the economic process of consumption than upon production, property or income. Treatments there have been, of course, from time to time; yet textual discussion remains both scarce and often generalized, casebooks all but disregard such taxes, periodical comment is marked by its paucity, relevant decisions and administrative rulings are tucked away beyond the reach of many, and, all in all, the area has been left to shift as best it may in the mad scramble to decode the intricacies of other aspects of the complex taxing systems of today.

Nevertheless, consumption taxes now represent a significant part of the total yearly tribute that is Caesar's; indeed, taxes of this denomination will not uncommonly exceed in fiscal productivity the yield from more established sources. A comparative latecomer, especially in the states and local political subdivisions, consumption taxation can no longer be cavalierly dismissed as a transient interloper. It is here to stay as an effective further mode of raising the vast sums of public monies necessitated by Government's ever-expanding role. Beyond this, this species of tax, pressing on the economic arteries of the body politic, is peculiarly available for effectuation of the rising philosophy of socio-economic control through tax techniques, whether the nation be at war or peace. Its place in the taxing systems of tomorrow is thus doubly guaranteed.

These considerations would seem amply to warrant an inquiry into the problems raised by introduction of consumption taxation as a major taxing device. Especially is this true in view of the fact that in so many particulars does its introduction involve issues of an economic, fiscal and technical character wholly or largely absent from the application of other major forms of taxation. The field itself, ill-defined as yet, requires careful delineation; so also must careful consideration be accorded the question of the balance preferably to be struck between the newcomer and more established methods of raising public revenues. Taxation at the consumption stage brings crucial problems in economic impact, even apart from the dynamics of intended shaping of economic and social ends. And both the character of consumers' taxes

and the circumstances of resort to them produce, on the state level at least, hard questions of revenue disposition as well as of revenue realization.

Revenue realization itself precipitates many a problem as the principle of consumption taxation is translated into rules of day-to-day administration. To be met—and somehow conquered—are jurisdictional and commerce limitations on both power to tax and power to collect; internal tax collection from a host of taxpayers, unaccustomed to the function, demands an administrative technique all its own. Definition of an unfamiliar kind of taxable transaction, complicated by the utilization of new bases of measurement, and vexed by the necessity of successful assimilation of constitutional and statutory pressures for exclusion and exemption, lest the Jonah of liability be swallowed up by a whale of exceptions, put administration further to the test. Federal experience offers partial guidance and example; yet for the pioneering municipalities especially, such aid is offset by difficulties unique to them. To a critical analysis and evaluation of consumption taxation and its train of problems, insofar as such a program can be fulfilled within a periodical's pages, this symposium is devoted.

FRANK R. STRONG.