

Bookshelf

HEATHER HISEY, *Editor*

The Charity and Not-For-Profit Sourcebook

By Arthur B. Drache

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At first glance *The Charity and Not-For-Profit Sourcebook* appears to be a new and very useful service to lawyers and others working in these areas; an addition to the growing number of looseleaf "service" publications produced by legal publishers. Typically such services are organized topically, and within each topic the authors lay out the legal principles and provide citations to cases and statutes. When a new case comes along, or a statute is amended, parts are rewritten and incorporated into periodic updates, which are issued to subscribers. Good services therefore function both as a kind of textbook, albeit an often less than elegant one, and as a kind of professional newsletter, keeping the reader up to date and avoiding the need to check a variety of sources for possible new cases or statutory amendments.

Unfortunately a second glance reveals that this is not such a service and, in my view, is of very limited use indeed. It consists of four distinct parts. The first and largest part is a reproduction of the complete text of a number of reported cases dealing with charities and not-for-profit law. With one small exception noted below, the *Sourcebook* does not provide an account of the law organized topically or thematically, it simply reproduces some case reports. In short, it functions more like a (partial) report series than a digest or explanatory tool. This seems to me to be a serious flaw. The person who knows the law will know the limited range of cases reproduced here. The person who does not know the law will not want to read a few hundred pages trying to work out basic principles, especially if the limited range of cases means that he or she may well not find the object of the search. The only place where a systematic explanation of the meaning of charity is offered is at the beginning of this section, where a number of pages from *Halsbury's Laws of England* are reproduced (without attribution). Not all of what *Halsbury's* has to say on the subject is included, and it is particularly puzzling that there is no discussion of education or of religion.

It also seems to me that even on its own terms this volume is much less effective than it could be, i.e., the mere reproduction of the text of some cases could have been done more usefully. I think there are two problems here. First, at the end of the day it includes a very limited number of cases which necessarily cover a very limited range of issues. To reproduce all of the relevant cases would, of course, have required a multi-volume work, and that is precisely why services do not seek to do so, they leave it to case-report series.

Second, even the cases that are reproduced could have been made more accessible if placed within the confines of rigorous headings that would guide the reader interested in a particular topic to the right place. Yet the Table of Contents provides only a limited number of less-than-revealing headings. For example, the section dealing with the meaning of “what is charitable” begins with the Halsbury’s material (although the actual heading to the seven pages is “Preamble to Charitable Uses Act 1601”) and then reproduces three English cases. There follows the general heading “Selected Canadian Cases”, under which six Canadian cases are listed. There is no indication here of which aspect of the large topic of “the meaning of charity” they are dealing with. A short note preceding each case usually, although not always, gives this indication, but it is a bit late by then. And of course six cases do not quite cover the field. A further six political-activity cases are then listed, followed by four more under the heading of “Other Issues”. Although some headings are more descriptive—“Benefit Received: Is It a Gift?”, for example—the later parts of the Table of Contents also contain “Selected Ontario Cases” and “Other Income Tax Cases”. In short, the case report reproductions which make up more than half of this *Sourcebook* are a useful tool for those who know exactly what they are looking for, are looking for one of the cases chosen, and can thus avoid going to the original case report. However, if one then wished to cite the case for an article or a factum, one would still have to go to the report.

It was noted above that most of the cases are preceded by very brief introductions. This may be an idiosyncratic view, but I did not find the introductions to be very revealing. Two cases on the relief of poverty are said to “give something of a ‘feel’ for how such issues may be dealt with by the courts”, and two political-activity cases are said to show that “strict definitions [are] applied by the courts”. Indeed in one instance—which to be fair may be the only instance, the introductory note is wrong. In reference to *Re Canada Trust Co and Ontario Human Rights Commission*, the *Sourcebook* states that the challenge to the criteria for the Leonard Foundation awards “was based on provisions of the Ontario Human Rights Code” and that the Ontario Court of Appeal “effectively struck down the offending provisions”. The Court did in fact (not just “effectively”) strike out the discriminatory

provisions of the trust, and on the grounds that they contravened public policy, not because they offended the Code.

Rather more useful are the second and third sections of the *Sourcebook*. The second part, entitled “Federal Legislation and Administration”, consists largely of sections of the *Income Tax Act* and related regulations, Interpretation Bulletins, forms, etc. A third, much smaller part, contains provincial legislation in the area. (The final section, suitably entitled “Miscellaneous Material”, reproduces the 1993 CICA Re-Exposure Draft on accounting for non-profit organizations and Revenue Canada’s 1990 Discussion Paper on charities.) Undoubtedly the most useful feature of this publication is the fact that it has made the statutory material available in one place. It is not as useful as it could be, for the statutory sections, unlike many other services, are not annotated with references to cases interpreting them. Some of the relevant cases are in the *Sourcebook*, but in the first section, and there is only occasional reference to it.

Despite the usefulness of having relevant legislation in one place, this is overall a disappointing production. In the Introduction the author gives three purposes for putting together the *Sourcebook*. The third—bringing together the legislative provisions—has been achieved. The first is said to be that “many of the basic cases dealing with charity law are in fact British in origin” and it is “difficult to lay one’s hands on the actual case report”. It is true that English cases remain important, but in fact this volume contains just three of them (described as a handful in the Introduction). It does not contain a case like *Incorporated Council of Law Reporting for England and Wales v. Attorney-General* [1972] Ch. 73, often relied on by the Federal Court of Appeal for its decisions about what constitutes “education” within the law of charity. The second purpose noted in the Introduction is that Canadian charity and not-for-profit cases are often “scattered” through many different volumes of case reports, and this publication is “designed...to provide a comprehensive source for relevant Canadian cases”. The first point is correct; the answer lies in either producing a report series—*Canadian Charities and Not-for-Profit Reports* perhaps—or a topical service. The *Sourcebook* is neither.

The Jossey-Bass Handbook of Nonprofit Leadership and Management

By Robert D. Herman and Associates

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Anyone with board or management responsibilities in any Canadian not-for-profit organization will find this text useful to have at hand. There has been a plethora of publications on not-for-profit organization management in recent years and the best ideas are summarized in this book. The book is American in origin, and encyclopedic in scope, with 25 chapters, each by a different author or authors, covering five general areas: historical context of not-for-profit organizations; key leadership issues; managing operations; developing and managing financial resources; and managing people. Two of the chapters are written by well-known Canadian educators in the York University Voluntary Sector Management Program: Mel Moyer on *Marketing for Nonprofit Managers*, and Vic Murray and Bill Tassie on *Evaluating the Effectiveness of Nonprofit Organizations*.¹ Most of the authors are well-known experts in the management of not-for-profit organizations, including Nancy Axelrod writing on board leadership and board development, and Robert Anthony and David Young writing on management accounting and financial management; good coverage of four of the most critical topics from this reviewer's perspective!

As the authors contend, not-for-profit organizations are different, unlike either business and government organizations in certain fundamental ways, while similar in others. Because the distinctive character of North American not-for-profit organizations does affect their leadership and management, this book is designed to provide comprehensive descriptions of effective leadership. It succeeds in this with well-written chapters, clear chapter summaries, good footnotes, and extensive references to other excellent, relevant, writings at the end of every chapter.

As the noted American business author Professor Peter Drucker has pointed out, one cannot make decisions for the future. "Decisions are commitments to action. And actions are always in the present, and in the present only. But actions in the present are also the one and only way to make the future."² Whether readers are chief executives endeavouring to enable their boards to carry out their duties and responsibilities, fund raisers looking for new ideas or endeavouring to manage the challenge of government funding reductions, or volunteer co-ordinators struggling to recruit and train volunteers, they will

find useful thoughts from seasoned professionals on integrating mission, people, money and strategy. Those with experience will recognize the problems and wince at the difficulty of following the recommendations. Those with less experience will be forewarned of the difficulties they face and the need to keep their wits about them in all aspects of not-for-profit organization management. The problem each will have will be the normal one of implementing good ideas such as those presented in this book in a difficult situation. Nevertheless, continuous improvement is possible in every organization in each of the four management areas discussed: leadership, operations, financial resources and people.

FOOTNOTE

1. [See "Improving Cost Information for Decision-Making in Nonprofit Organizations", this issue p. 10.]
2. Peter F. Drucker, *Managing in A Time of Great Change* (New York: Truman Talley Books/Dutton, 1995), Preface.