

***Security Regulation of Take-over Bids in Canada*, by John T.D. Courtright, Calgary: Carswell, 1985. Pp. xli, 122. \$35.00 (hardcover)**

Take-over bids have stirred a number of people to action in the past 20 years. The terms of reference of the *Kimber Committee* (whose Report is often seen as the foundation of modern securities law in Canada) listed the study of take-over bids first in its mandate.¹ Numerous studies addressing only take-over bids have been initiated.² The appointment of a Royal Commission on Corporate Concentration was a direct result of an attempted take-over bid.³ There is also the controversy that has surrounded foreign take-overs and the establishment of the Foreign Investment Review Agency and its successors, which owe their foundation to the *Watkins Report*⁴. Thus it is not surprising that one should find a book devoted to their regulation.

The focus of this book, however, is one the regulation of take-over bids from the standpoint of the securities and business corporations acts. The objective of the provisions in those statutes is to provide a free and open securities market. Take-over bids have been a particular problem area. Prior to this type of regulation, investors received offers with little or no time to really consider their merits. In a situation where the bid was for less than all the shares, the investor might find when he tendered that others had tendered before him with the requisite number of shares for the take-over. As a result, his tender would be rejected. On the other hand, if he tendered early he might later find out that the price offered had been increased. It was obvious that the market place in a country the size of Canada needed some minimum time limits. Control blocks of shares also posed problems. There were basic issues such as the right of the owners of such a block of shares to receive a premium for the sale of control. There was also the associated question of the right to purchase such a block of shares without making a similar offer to the other shareholders. Issues were raised concerning private agreements and whether they should be exempt from the rules that generally governed take-over bids: If they were exempt should the purchaser be required to make a follow-up offer to the remaining shareholders? In addition, the use of the facilities of the stock exchange to make a take-over bid had been questioned. If one party wanted to sell and another buy, the question was raised as to whether the exchanges should execute their orders.

Courtright reviews these questions from their historical development. Generally the book is a descriptive account of the changes that have been recommended and made since the 1960s. The reasons for these changes are presented more as a précis of the major reports that dealt with the legislation

¹Ont., *Report of the Attorney General's Committee on Securities Legislation in Ontario (Kimber Report)* (Toronto: Queen's Printer, 1965) 6.

²J.T.D. Courtright, *Security Regulation of Take-Over Bids in Canada* (Calgary: Carswell, 1985) xxi-xxii.

³Can., *Report of The Royal Commission on Corporate Concentration* (Ottawa: Queen's Printer, 1978) xix.

⁴Can., *Foreign Ownership and the Structure of Canadian Industry (Watkins Report)* (Ottawa: Queen's Printer, 1968).

rather than from a unified point of view. Even then discussion is limited: The book contains only 120 pages of text. Not surprisingly, there is little focus on judicial trends (the table of cases contains about 25 cases) as most developments are still at the legislative stage.

One difficulty that the book will probably encounter in the near future will be that it will become dated. As Courtright's thesis supervisor (the origin of the book is found in the author's master's thesis) points out, take-over bid legislation is in "a state of flux".⁵ The last legislative pronouncement on follow-up offers, private agreement exemptions, premiums on the sale of control and stock market purchase exemptions is probably far off. Thus a greater theoretical foundation for the regulation would have been useful.

For someone looking for a compact review of the securities regulation aspects of take-over bids in Canada, the book should serve as a useful guide and background reading. As the length of the book alone would attest, it is a place to begin; it is not the definitive text.

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⁵*Supra*, footnote 2 at v.

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