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Book Reviews

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BOOK REVIEWS

Accounting in Law Practice. By Willard J. Graham[1] and Wilber G. Katz.[2] Chicago: Callaghan and Company. 1938. Pp. xvii, 553. $6.50.

This is the second edition of a work which first appeared in 1932, designed by the authors "primarily for consecutive reading rather than a reference book." It is to prepare the student or the lawyer who is called upon to deal with accounting problems with an understanding of basic principles and essential elements. The importance of this function is obvious, and the book performs it successfully. Not many years ago the present reviewer attended a series of classroom lectures by one of the co-authors in a course entitled "Accounting in Legal Practice". That course constituted a most convenient method of acquainting the practicing lawyer with fundamental accounting theories useful in specialized litigation, and it was undoubtedly that course which gave impetus to the preparation of the first and second editions of this book so as to make it available either as a text for formal study or for self-examination by the lawyer who is called upon to deal with accounting problems.

The second edition, besides improving and clarifying the original treatment, contains two added chapters on public utility valuation and depreciation, as well as an expansion of the discussion of other important corporate problems. Fifty pages are now devoted to questions for class discussion and some of these go well beyond a mere testing for memory.

Obviously a one-volume attempt to guide the reader from simple journal entries through valuation of assets and statement analysis to consolidated statements, presents serious problems of selection and adaptation which these authors are well qualified to solve. While the authors occasionally express an opinion as to the wisdom of certain accounting practices, their principal purpose appears to be to report rather than to evaluate or criticize. In this they are undoubtedly wise, for a critical analysis of the many subjects would so extend the treatment as to make it of little value for the purposes obviously intended.

In the two new chapters on public utility valuation, there is some deviation from this method, at least to the extent that they constitute an advocacy of a formula for the determination of a public utility rate base, in lieu of the concept which up to this time has been approved by the courts in confiscation cases. These chapters are an adaptation of

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the study of this subject by the senior author[3] and constitute an accounting approach to the subject of public utility valuation which eliminates altogether any consideration of estimates or opinions, either as to the elements of value itself or the condition of the property at valuation date. The accounting method employed (costs factored to valuation date minus the accrued depreciation reserve including obsolescence factored to the same date) has the merit of relative simplicity, but, of course, fails to meet the realities of court decisions specifying the essential ingredients to a determination of value.

In fact, the authors base their conception upon their conclusion that the term "value" can have no significance in public utility rate cases because "value" can only be determined in the economic sense as a product of earnings. Value so determined, they say, results from circuitous reasoning in that it is first based upon earnings and then immediately utilized as a basis for earnings. This, however, ignores the fact that what the utility is entitled to earn as a matter of constitutional right is a fair return upon the inherent value of its property devoted to the public service. That such an inherent value of all property exists (quite independent of the earnings thereon) can scarcely be gainsaid. For example, the average man's concept of value of a suit of clothes, of his household furniture, or of the family automobile, quite ignores any consideration of investment for return. It is the same sort of value which under court decisions must be determined in a public utility confiscation case. In this sense the calculations prescribed by the authors could only be considered as one of many evidences of value in ascertaining the final figure to be used. We have not yet reached the point of substituting either engineering or accounting formulae for the sound judgment required under the controlling decisions of the courts.

The authors make a strong case for depreciation accounting. They might have utilized the present predicament of our railroads as a graphic illustration of the fallacy of the proposition that a well-maintained railroad (or other utility) will not depreciate after the seasoning period has passed. In the railroad industry, where depreciation accounting obtained only in respect to equipment and practically not at all in respect to roadway and structures, the railroads now find themselves with a rate structure so low as to provide no margin above other operating expenses for contributions to a depreciation reserve, and at the same time a depletion in the value of their property by reason of the obsolescence resulting from a development of competing forms of transportation, and with no depreciation reserves to protect the investors or the credit of the enterprise. Actually, some of our railroads have been, for a number of years, unwittingly distributing a part of their capital

[3] GRAHAM, PUBLIC UTILITY VALUATION (1934).

either as dividends to their stockholders or as largess to their shippers and passengers.

The very fact that the new edition stimulates this sort of discussion proves its value. Throughout there is an excellent explanation of accounting terms and concepts in language sufficiently clear and simple to be understood by those of us who are not trained accountants. The book properly contains a large number of examples, most of which are necessarily hypothetical. If one might make a critical suggestion of a work so well performed, it would be that the student's understanding of the subject, as well as his interest, could be significantly heightened by occasional brief references to actual business examples, as has been so well done in the general corporate field by Dewing. The practitioner, on the other hand, would be greatly assisted by the inclusion of more references to technical periodicals and proceedings of the various regulatory commissions. Perhaps an expansion of the present work later by the authors may fill these requirements. Meanwhile, this second edition is quite the best book available for the purposes intended. It offers an accounting approach of real value to lawyers who have or may have to deal with problems involving the intricacies of accounting practice.

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History of American City Government: The Colonial Period. By Ernest S. Griffith. New York: The Oxford University Press. 1938. Pp. 464. $3.75.

This is the first volume of a projected series of four volumes on the history of city government in the United States. Many books have been published on municipal government but this is the first comprehensive study of town and city government during the colonial period. Mr. Griffith, who is Dean of the Graduate School of the American University, has made a thorough study of a vast amount of primary sources, such as British and colonial official records; city, town, and borough charters; tax records; account books; private correspondence, and maps. His study emphasizes the political evolution of the municipalities, but throughout the volume he shows the interrelation of social, economic and political forces in the colonial towns. The book follows the topical rather than the chronological method, because the governments of the small towns and cities in the late colonial period were quite similar in structure to those of the small municipalities in the seventeenth century.

The first chapter is a survey of the English background of the American city, and it shows how the latter was indistinguishable as to

legal basis or function from hundreds of British boroughs in the seventeenth century. During the eighteenth century the American town governments began to take on rather distinctive American characteristics, though they still reflected the influences of their English background.

Most colonial municipalities operated under charters which endowed the town, borough, city, or whatever name the local unit of administration was given, with its powers and an outline of the framework of its government. These charters were issued by governors, proprietors, and assemblies. Many of the incorporations in Pennsylvania, Maryland, and New York were made by the governors or proprietors, while most of the corporate charters in North Carolina were granted by the assembly. More and more the assemblies gained the right to grant these charters, and only when the term "borough" was used and when privileges more peculiarly associated with the royal prerogative were included, was a serious question of assembly competence raised.

The total number of municipal corporations in the colonial period was between twenty and forty-five. Among the many reasons for incorporating them were the increase of military strength, the possession of local courts, an interest in better and independent government, and a desire for separate representation in the assembly (in some cases). However, the chief motivating factors were economic. Charters were sought in order to encourage the growth of the artisan and merchant classes, who were normally granted monopoly privileges thereunder. Towns clamored for the privilege of being made "market towns", the location of a semi-annual fair, or the privilege of staple right or port monopoly. With the stimulation, regulation and taxation of trade their primary objectives, these municipal corporations proved effective agents of economic control. They regulated wages, the price and quality of many commodities, the time and place of marketing, and above all, the right or license to sell.

There was more popular participation in municipal government in New England than elsewhere, but outside of New England the franchise in towns usually rested on a broader and more democratic base than in the rural districts. The close corporation of Philadelphia was an exception to this general practice. In North Carolina the towns were more significant in politics than they were in industrial or commercial affairs. The "borough" towns were represented in the legislature, and exercised great influence in colonial government.

Mr. Griffith has an excellent chapter on the Dutch incorporations and a very interesting treatment of vestries, boards, and commissions in the colonial towns. One of his best chapters deals with the finance of colonial municipalities, in which he throws much new light on the origin of the American property tax. Many of the town activities were

financed by "service taxes", and many others were on a self-supporting fee basis. The author estimates *per capita* town expenditures in 1760 at 1 shilling 6 pence in the larger cities (over 5,000) and 9 pence *per capita* in the smaller ones. This estimate does not include poor relief.

There were many sources of municipal revenue—fees, fines, lotteries, rent of land, toll from ferries, poll taxes, and property taxes. The two largest sources of New York City's income in 1770 were £970 from ferries and £690 from docks. Philadelphia obtained most of its revenue from ferry rents and market and vendue stall rents. The property tax came into use in the latter part of the colonial era and it was this tax "that was ultimately to prove by far the most significant contribution of the colonial period to the subsequent course of American fiscal development."

Other chapters of the volume deal with the relations of the municipalities with the government of their colony, municipal public opinion, the quality of government, trends and changes. There are four valuable appendices, which give the dates and nature of charters of incorporation, bibliographical notes on town charters and minutes, estimates of the population of colonial cities, and a comparison of ordinances of New York and Albany governments at different dates. A good index rounds out this pioneer study in the history of American city government.

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The Lawyers of Charles Dickens and Their Clerks. Second Edition. By Robert D. Neely. Boston: The Christopher Publishing House. 1938. Pp. 67. $1.25.

This little book, written in a spirited, popular style, is designed for about ninety minutes of rapid reading. The author's purpose is to entertain; hence the book—like Darwin's "Sergeant Buzfuz" and Haynes' "Messrs. Dodson and Fogg" in *A Pickwick Portrait Gallery*—is addressed to Dickens lovers rather than—like Holdsworth's *Charles Dickens as a Legal Historian*—to Dickens scholars. In fact, the externalities of scholarship are entirely absent.

Mr. Neely's qualifications for writing the book seem to be adequate. His training in law, for he is a member of the Omaha Bar, and his general knowledge of court procedure in England during the days of Charles Dickens, give him a peculiar fitness to present a gallery of lawyers from the books of that novelist. He evidently has read with more than ordinary appreciation the major works of Dickens, in which the novelist portrays his principal adherents to the legal profession.

Mr. Neely presents kaleidoscopic views of the lawyers and lawyers' clerks painted by Dickens. There is no cross-sectional analysis of the characteristics of the group as a whole, no artistic center around which the individuals are grouped; therefore, the book does not impress one as a finished work of art, but as a continuous roll of thumb-nail portraits. Nevertheless, even this is worth doing; for there is a decided advantage in having most of Dickens' lawyers and their assistants under one cover. Many present-day lawyers are aware that Dickens' works teem with characters and situations of peculiar interest to them; but the task of ferreting them out of fourteen major novels and thousands of pages of minor works is too great, perhaps, for the expected returns. Busy men of this type will find Mr. Neely's book an excellent guide.

Since this is a study of Dickens' lawyers and law clerks, the author does not yield to the temptation of elongating his subject to the inclusion of a treatise on the various law courts of Dickens' day; he does not even enter into the problem of court and penal reform. In other words, Mr. Neely keeps to his subject: Dickens' lawyers and their clerks. Furthermore, he presents the novelist's lawyers as he finds them, without any effort to analyze their creator's attitude toward the legal profession or to defend the individuals of that profession castigated by him. Such an analysis or defense would have detracted from the purely entertaining character of the book.

However, there is too much quotation. Approximately one-third of the text is quoted directly from Dickens or other unannotated sources. In too many cases the author simply builds a word-frame, and—by means of more or less aptly selected quotations from the novels—allows Dickens himself to furnish the word-portrait.

Although a cross-sectional analysis of the entire group of lawyers might be undesirable in a book written for entertainment, yet a more thoroughgoing analysis of the individual portraits would have heightened the reader's pleasure and added to the book's usefulness.

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May's Criminal Law. Fourth Edition. By Kenneth C. Sears and Henry Weihofen. Boston: Little, Brown & Co. 1938. Pp. lvii, 406.

The fourth edition of May's treatise on criminal law runs to 406 pages, divided into eight chapters, the first of which takes about one-fourth of the whole to discuss general principles, and the remaining seven subdivide the substantive criminal law into offences against:

(1) the government; (2) public tranquility, health and economy; (3) religion, morality and decency; (4) the person; (5) the dwelling house; (6) property; (7) maritime law. Under these broad headings the author-editors collect and discuss interlocking and related crimes commonly accepted as part of the traditional criminal law. These limitations are explained in the preface: "It was not possible to consider more than the substantive criminal law and keep the text within the limits thought desirable. . . . Although it is hoped that this book will be of value to practitioners, teachers and judges, it is designed primarily for students in law schools, and it was thought better to restrict it to the generally recognized fundamental crimes."

Professors Sears and Weihofen started out as editors and wound up as authors. They found that a criminal law textbook written in 1881 might properly be "revised" a few years later, and might even be "brought up to date" by adding paragraphs, sections and citations in 1905, but that it had to be reconsidered and rewritten if it was to serve in 1938 the purpose of former years. The text of May has become the text of Sears and Weihofen. They may well be proud of their handiwork. For, granting the validity of their restriction of the subject to the substantive criminal law and their restriction of the substantive criminal law to the "generally recognized fundamental crimes", they have produced the best statement that has yet been put within the limits of four hundred pages. It is to be hoped they will make this book a starting point rather than a stopping point in the field of substantive criminal law. It is further to be hoped that they will find it in their systems to do unto some short treatise in criminal procedure what they have just finished doing to May's Criminal Law.

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