

6-1929

Book Reviews

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Recommended Citation

Arthur, Donald; Weiss, W. F.; and Sweeney, Henry (1929) "Book Reviews," *Journal of Accountancy*. Vol. 47 : Iss. 6 , Article 8.

Available at: <https://egrove.olemiss.edu/jofa/vol47/iss6/8>

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FEDERAL TAX PRACTICE, by ROBERT H. MONTGOMERY. *The Ronald Press Co.*, New York, 757 pages.

With the publication of *Federal Tax Practice* Mr. Montgomery adds materially to his valuable contributions to the practical aspects of federal income taxation. His earlier publications, dealing with income-tax procedure under various income-tax laws, have been perhaps the most widely used of the textbooks on the subject. These books have always had a strong appeal, particularly to those whose interest in tax problems was of the practical variety, because he has consistently dealt with the subject with directness and simplicity. The present book is an excellent example of Mr. Montgomery's ability to deal with a complicated and often irritating situation in a clear, simple and orderly manner, readily understandable by the merest tyro.

In his preface Mr. Montgomery disclaims any intention to attempt the education of the layman and it is all the more to his credit that he has made the book simple, even though, as he states, it is primarily intended for the consumption of lawyers and professional accountants. Heaven knows, most of us, however expert we may believe ourselves to be, frequently end up in a maze when attempting to discern for ourselves the meaning of many of the provisions of the law, the regulations and the rulings of the bureau.

The book is divided into three main parts, as follows: (1) procedure in the treasury; (2) procedure in the board of tax appeals; (3) procedure in the federal courts.

Accountants will be primarily interested in part I because it is in the practice before the treasury that problems of a purely accounting nature can be ironed out, and in that practice the accountant may properly occupy a leading rôle. While their assistance may be invaluable to counsel in proceedings before the board of tax appeals and before the courts it is the opinion of the reviewer that accountants should not themselves attempt to represent their clients before the board. Before the courts they may not.

Mr. Montgomery in his introductory chapter suggests that accountants should practise before the board only if they have become fully acquainted with the rules of evidence and procedure, but even if so fortified he points out that they lack the training and experience necessary to protect the interests of their clients in a proceeding which has become as technical as is a hearing before the board. Without such training and experience he says they will not "be able to apply their knowledge from memory, on their feet, and without special notice regarding the legal questions which will arise."

It is worthy of note that part I, dealing with procedure in the treasury, occupies some 210 pages; part II, dealing with the U. S. board of tax appeals, 168 pages, and part III, dealing with the federal courts, only 51 pages.

In addition to the introductory chapter there is, preceding part I, a chapter on statutory construction.

In reading part I the impression is gained that Mr. Montgomery has come to the conclusion that, while there may still be room for improvement, the treasury on the whole has done a good job in the administration of the tax laws. In various places he is complimentary. On page 22, for instance, he says of the special advisory committee, "It is to be complimented on being the first body in

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the organization of the treasury department which has whole-heartedly and successfully cooperated with taxpayers in reaching a solution of problems which theretofore had been thought to require the attention of the courts or of the board of tax appeals". He points out that there is still "a tendency . . . toward too much review", and says, "Too many reviews, like too many medicines, are inclined to kill and not cure". Most tax practitioners will heartily agree with this good-tempered criticism.

Mr. Montgomery stresses the importance of laying the foundations, in the earlier proceedings, to comply fully with the procedural necessities at present in vogue in the trying of cases before a court. Why this should be essential will always be a mystery to the layman and perhaps this necessity is partly, if not primarily, at the back of the seeming stupidity of court procedure. One gathers from the utterances of President Hoover that his proposal to cause a review of court practices and procedure in general had its origin in just such a necessity. Why in the name of all that is high does the appellate court in New York state refuse to review rulings on evidence where the lawyer has used the word "objection" in the lower court when the procedure in this state requires the use of the sacred word "exception" in addition? Mr. Montgomery, of course, is dealing with procedure as it exists, but the very fact that he recommends that, from the ground roots up, tax cases, no matter how simple, should be tried not only with the object of winning them, but of laying the necessary foundation for a court trial (that may never take place) in itself shows a justification for President Hoover's recommendation.

In happier vein Mr. Montgomery mentions the existence of a disposition on the part of the treasury to meet taxpayers half way in the compromise of contested cases. He is doubtless familiar with the fact that this spirit has grown up in the last year or so under the inspiration and direction of Assistant Secretary of the Treasury Henry Herrick Bond. Most practitioners during this period must have felt, consciously or unconsciously, the gradual improvement in attitude on the part of bureau officers, extending even to general counsel's office. Since Mr. Montgomery's book was written the review division of that office has been remodeled by Mr. Bond and is now making a real effort to settle cases by compromise. What Mr. Montgomery says about the special advisory committee is equally true of the review division of general counsel's office as it now operates.

Federal Tax Practice is a welcome addition to income-tax literature and will doubtless be as widely read by tax practitioners as Mr. Montgomery's several editions of *Income-tax Procedure*.

In the preparation of *Federal Tax Practice* Mr. Montgomery acknowledges the assistance of J. Marvin Haynes, Roswell F. Magill and James O. Wynn.

DONALD ARTHUR.

LEGAL ACCOUNTING AND COURT AUDITING, by HERBERT L. DAVIS.

Vernon Law Book Co., Kansas City. 796 pages.

The brief title on the cover of *Legal Accounting and Court Auditing* is amplified on the inside title page, indicating its contents and intended scope to be a treatise on

"Legal accounting and court auditing—federal and state practice in law, equity and kindred proceedings—respecting the duties of masters in chancery,

court auditors, referees and fiduciaries—together with analyses of cases involving the application of principles respecting accounting, patent infringement suits and legal precedents pertaining to trust estates, proceedings in partition, contracts, banks and banking, by Herbert L. Davis, L.L.M., former referee and court auditor, supreme court of the District of Columbia, member of the bar of the supreme court of the United States.”

If thereto be added, by way of perhaps unnecessary further qualifications of the author, “instructor in legal accounting and court auditing, National University Law School, Washington, D. C.,” the first impression one gains is that this book covers a special field of accounting by an experienced and trustworthy authority, and when one has become familiar with its contents and their arrangement, this first impression will broaden to a conviction that this important field and its various branches have been completely and instructively covered and that the volume is well deserving of a readily accessible place in the office, library and file records as a much needed, compact source of information, guide and reference.

The descriptive title page presents the broad scope of the volume. Of its contents some 590 pages are devoted to twenty-one chapters classified under various legal subjects, in relation to which accounting requirements may and do arise. An appendix of some 130 pages contains the revised rules of the supreme court of the United States (effective July 1, 1928) and rules of practice for the courts of equity of the United States, and these are followed by a subject index and a table of cases cited. The various chapters are devoted to the broader legal subjects, such as law of contracts; patent causes; constitutional law and its relation to the work of court auditors, masters and referees; provability of claims; hearings and procedure; testimony and evidence, trust estates; fees, commissions and allowances; corporate and individual fiduciaries; debts and legacies, and numerous others. These broader subject matters are again subdivided and grouped into more specific classifications or sub-sections, all preceded by a descriptive table of contents.

A further subject index then points to the treatment of such special subjects as accountants; accounting suits; bankruptcy proceedings; distribution of funds under accounting; fiduciaries; legal accounting; accounts stated; realization and liquidation accounts, etc., etc., as they respectively relate or apply to the broader covering sections on the laws, practice and procedure. This very comprehensive detailed arrangement proves decidedly practical and helpful in facilitating convenient and ready reference.

The chapters are interspersed with a number of illustrative reports, statements and schedules, as submitted in actual cases by auditors or referees, and accepted and approved by the court. Of interest and importance will be found the cases and the decisions rendered therein, cited by the author for the avowed purpose of making readily accessible in such instances the leading precedents and guiding cases of the numerous jurisdictions. The cases relate variously to principles and procedures in the numerous branches of legal accounting; to the guiding principles in the interpretation of written instruments; to approved services by professional accountants employed under court orders; to the duties, limitations and restrictions of fiduciaries, etc., etc. Under the latter subject, as one of various instances, the report of the Hon. Jas. A. O’Gorman, referee in the action of *Gould v. Gould*, for the judicial settlement of the accounts of the executors and trustees of the Jay Gould estate, is cited in full. These sections devoted,

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among others, to the administration of trust estates, differentiation between investments and speculation, the commingling of trust funds constituting a criminal offense in New York state, and various other features of the obligations and accountability of such fiduciaries constitute subjects of vital and absorbing interest.

Following largely the practical case method, the book thus covers along lines of actual experience the practice and procedure under which matters of accounting arise and are referred by the courts to referees, masters, auditors or similar appointees, and the rules or principles of law and precedent which are to guide and control them in their duties. The author offers wise counsel in matters affecting both lawyers and professional accountants. He advises a clear division of responsibilities and duties, with due regard to questions of law and fact for the purpose of effective coordination and complete understanding and cooperation. There are also various helpful and interesting sections on fees and compensation, and the value and measures therefor of professional services.

In its initial paragraphs the book informs us that it is not intended to cover instruction in commercial accounting, but that it is a comprehensive exploration in a heretofore practically unsurveyed field and that it is an endeavor, without sacrificing clarity to set forth tersely definite statements of policy, procedure and method to be pursued, with a minimum of theory.

It is pleasant to note in this volume that the author is a persuasive and convincing exponent of the character, scope and value of the services of accountants and of the gratifying increase in the value placed on their services by clients. He refers to the trend on the part of the courts to select qualified accountants as receivers, assignees and trustees, especially in the active management of going businesses, and staunchly asserts that this admirable plan has worked to the decided advantage of trust estates. His book is thus in perfect accord with his sentiments, in that it constitutes a valuable and instructive contribution towards increased proficiency in the science and practice of legal accounting and court auditing. As such it is deserving of a warm and appreciative welcome.

W. F. WEISS.

HOW TO ANALYZE COSTS, by COLEMAN L. MAZE and JOHN G. GLOVER.
The Ronald Press Co., New York, 1929. 402 pages.

The purpose of *How to Analyze Costs* is to present "a detailed analysis of the major elements of manufacturing, selling and administrative costs and set forth a procedure for determining the causes of their variation from the figures of previous periods or from predetermined estimates." It is designed primarily as a text for collegiate schools of business.

The first chapter presents the subject of standards, to which constant reference must be made in later pages of the book, inasmuch as standards serve as criteria for comparison with analyzed costs.

Chapters two to seven, inclusive, set forth a general description of ideas and facts with which a reader should be at least superficially familiar in order to understand fully the cost analyses that follow.

Beginning with the eighth chapter and continuing through part of the eighteenth there is a description of all the kinds of factory costs customarily shown by the accounting system, the description of each such cost being fol-

lowed by detailed analysis of the causes for variations in that cost and by exposition of the ways to ascertain such causes. The first of these chapters, the eighth, describes the analysis of direct material costs; the next, analysis of direct labor costs, and the others, overhead costs.

The latter part of the eighteenth chapter and the nineteenth and twentieth chapters discuss analysis of selling and administrative costs. Chapters twenty-one and twenty-two describe standard-cost systems; chapter twenty-three, the budget as a set of standards for current costs; and the final three chapters, ways of making cost information more understandable and more useful to the executives and accountants who can profit by it.

The general method of ascertaining the reasons for variations in costs, as presented in this book, is one that common sense would prescribe. A typical illustration of this declaration is to be seen in the enumeration (p. 106) of twenty causes of increased direct-labor costs, among such causes being the following: wage increases, poor supervision, idle time, defective equipment, labor turnover, and others equally obvious to any one able to visualize ordinary labor conditions in a factory. The value of the book lies, however, in systematic, comprehensive classification and discussion of the causes for increases or decreases in almost all the kinds of costs likely to be found in most concerns.

The descriptions and discussions are concise—perhaps, in some cases, too concise. The description of line, functional and staff plans of organization in the first chapter seems, for example, too brief to do anything but confuse a reader, perhaps the representative business-man type, not already familiar with such technical nomenclature. Writers of scientific treatises are, of course, always faced with the difficult problem of properly apportioning space to incidental explanation not closely related to the main thesis.

Some statements made presumably for the sake of brevity may give a student false ideas about the simplicity of really complex conditions. The authors declare, for instance (p. 225), that the amount in a depreciation reserve should equal the cost of a fixed depreciable asset when the asset is retired from service, so that funds for replacement of that asset will be available. Unfortunately, however, for the sake of verity in the accounting postulate that a dollar has always the same value and that, therefore, prices remain unchanged, the ability to replace a depreciated asset may bear only a haphazard relationship to the amount of funds reserved by a depreciation reserve that was built up by basing depreciation on original cost. That the authors subconsciously realize all this, of course, is shown by their subsequent assertion (p. 228) that future replacement cost "should be given some weight in setting rates of depreciation." Incidentally noticeable in this particular discussion is the cautious participation by the authors in a controversial matter (depreciation on original cost vs. depreciation on replacement cost). In most cases they wisely refrain from taking sides in unsettled accounting disputes—and this their subject permits them to do inasmuch as the purpose of the book is to analyze costs already incurred and not to set costs, such as depreciation.

Throughout the volume proper emphasis is placed upon the relative position of accounting in the organization and management of an enterprise. Recurrent reference is made to accounting as the tool of management and not as an end in itself. And emphasis is continually laid upon the necessity for con-

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structive use of cost analyses after such information has been obtained and compiled for executive guidance.

The viewpoint is a practical yet scientific one. The statements are frank. The declarations are sound, if occasional allowance be made for exceptions to statements that the authors doubtless meant to be mere generalizations. The style is quite readable, although perhaps the occasional use of actual figures would have made the page after page of technical printed matter, account classifications and blank forms somewhat more interesting and more tangibly related to the actual accounting use for which the book is intended.

Authors can not, of course, please everybody, especially when no two opinions tend to agree in details. Nevertheless, the book seems well worth reading and keeping available for reference—a good job on a subject not comprehensively and systematically treated previously.

HENRY SWEENEY.

EXECUTIVES' BUSINESS LAW, by H. A. TOULMIN, JR. *D. Van Nostrand Co., Inc.*, New York. 786 pages.

It is pretty generally agreed among accountants that their functions and those of the lawyer are supplementary; that members of both professions should be consulted in situations which involve elements of both law and accounting, and that few practitioners are capable of being thoroughly proficient in both. However, because of the close relationship of law and accounting in many business affairs it is also commonly believed that the accountant and the lawyer each should know something of the other's subject—enough, at least, to recognize the necessity for the other's counsel in certain situations.

Executives' Business Law is a book which should be of value to accountants who wish such an acquaintance with legal matters. It emphatically disclaims any attempt to provide information which will make legal assistance dispensable, but it does profess to cover, in skeleton form, the whole field of American law affecting business. It is easily conceivable that regular reference to this book might keep a business man out of many troublesome situations.

It seems paradoxical to say that a book of 786 pages has the great merit of brevity, but the statement is perfectly true in this case. The chapter on consolidations and reorganizations, for instance, contains a little less than five pages of printed matter, but it nevertheless includes much information. The bulk of the book is caused by the breadth of the subject which it covers, not by any unnecessary discursiveness on the part of the author. The form of presentation, indeed, is hardly more than an outline, with brief, explanatory comments. Abundant sub-headings in bold type make it easy to find the particular topic on which enlightenment is desired.

Each new section is indicated by the tiny design of an acorn, which may be either an expression of botanical predilections on the part of the printer or a reminder to youthful readers that "parvis e glandibus quercus."

J. L. C.