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BOOK REVIEWS

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BOOK REVIEWS


This work is the first attempt, so far as known, to treat exhaustively and scientifically the problem of office management as applied to the lawyer. The business of the lawyer in general practice necessarily has two distinct phases—the rendition of service to the client, which constitutes strictly the practice of his profession, and the development of methods and the maintenance of plant, equipment, and organization to enable him to render this professional service efficiently and with profit. While the extent and value of his services and the lucrativeness of his practice are largely dependent upon an efficient and smooth functioning organization and the thorough planning of his work, yet, as his practice becomes more extensive he invariably finds himself with less and less time to devote to systematizing his work and developing his plant and organization. The more he has to do the more time he wastes through lack of system and the more clients he serves the less profitable to himself is likely to be the service. This paradoxical situation presents what is probably the most common and certainly one of the most serious problems of the practitioner. Nevertheless, there has been little or no attempt, prior to the publication of this book, to make any comprehensive survey of the needs of the profession in this respect or to furnish any constructive ideas for meeting the situation. The book is calculated to fill a definite need and should be received with great satisfaction.

The work is very thorough and shows a true appreciation of the diseases with which it deals. It includes not only the treatment of definite objective symptoms but a search for and discussion of the underlying causes. Not the least valuable chapters are those devoted to the psychological factors affecting the various phases of the problem. While these perhaps present no really new ideas, they do aid decidedly in analyzing the difficulty and devising the most effective means of meeting it.

From this general treatment the work proceeds to the more specific, taking up almost every phase of what might be termed the business side of the practice. There are chapters on bookkeeping and accounting which suggest a modern bookkeeping system adapted to the lawyer’s needs and which treat of the handling of capital and depreciation accounts and finding overhead, after pointing out the necessity of these things if the books are to properly reflect the state of the business. Other chapters deal with improving routine and suggest tested and approved methods for increasing the efficiency of the lawyer and his assistants through standardizing correspondence, legal forms and routine operations, and through scheduling and dispatching work.

Perhaps the most valuable suggestions are those in the chapter on “Time Records and Charges.” These not only suggest methods and forms for keeping a record of the time devoted to each matter but also propose what the author terms the “basic time charge.” This is the amount which the individual
must receive as a minimum to produce the net income which constitutes his goal for a given period of time. The means of determining the basic rate which should prevail in a given office, the methods of handling individual items so as to preserve their proper relation to this basic charge, and the advantage of the basic rate method of fixing fees are all fully discussed.

Running through the book will be found a much more pronounced theme—a much closer relationship of subject matter—than one would expect in such a work. The various phases of the problem are so treated that the relationship of each to the others is made apparent. It is probably true that no single individual or office would be wise to attempt everything suggested by the author, but it is equally true that some of the suggestions could be profitably adopted by every lawyer and that the reading of the entire book will prove both interesting and profitable. From it every practitioner will gain a new conception of the weaknesses of his organization, a more definite realization of the fundamental principles underlying them, and many valuable suggestions as to their remedy.

"University of Iowa Law School.

WAYNE G. COOK.


In this small volume Miss Spahr has set forth an economist's critique of the federal constitutional law of taxation. The decisions of the Supreme Court are analyzed with a view to studying their accordance with or diversity from accepted economic ideas concerning the incidence and effect of various forms of taxes. Economic criteria are consciously placed in the foreground by the author in reaching her conclusions concerning the propriety of Supreme Court views. The effect of verbal construction, legal concepts and judicial history in their bearing upon judicial decision is expressly and consciously ignored. At the same time the author does not indulge in mere carp­­ing criticism of the Supreme Court because of the fact that its decisions in the field of taxation have occasionally strayed from the beaten path of academic economists. She recognizes that the court is confronted with the practical job of "laying down principles for the guidance of legislatures and citizens," and that, in the nature of things, practical results cannot always conform with economic theory, nor can the court always depart from an economically incorrect precedent when vacillation would cause inconvenience or injustice.

The author treats virtually all fields of taxation in which the decisions of the Supreme Court have had an economic significance. In separate chapters and with appropriate subdivisions she deals with state occupation taxes upon goods introduced into the state from without, other state taxes affecting the introduction of goods into the state such as taxes affecting pre-transportation sales and state property taxes contested as taxes on imports, state and national taxation affecting exportation of goods, state charges for the inspection of imports and exports, and duties on tonnage.

The author is particularly adroit in pointing out the specific features of tax decisions which cause the constitutional law of taxation to depart from
accepted economic standards. For example, it is pointed out that the Supreme Court in deciding cases involving Art. I, Sec. 9, Par. 4 of the Constitution (the direct tax clause) has frequently declined to accept the economic criteria defining "direct taxes," and has interpreted that term in an almost all-inclusive fashion so as to reduce to a minimum this chief constitutional limitation upon the taxing power of Congress. In only two cases, one a tax on income from property (Pollock v. Farmers Loan and Trust Co., 157 U. S. 429) and the other a tax upon stock dividends (Eisner v. Macomber, 252 U. S. 189) has the Supreme Court held congressional legislation invalid under the direct tax clause, although, as the author shows, taxes have on more than one occasion been held to be indirect in spite of the fact that according to the accepted definitions of economists they should have been classified as direct. (Pp. 115-133). Again, it is pointed out that, although an occupation tax may or may not be a tax on imports in the economic sense depending upon its magnitude, yet no distinction has been drawn in the Supreme Court decisions because of the mere size of such taxes, but all taxes, whether they have been large or small, which seemed to have been aimed at dealers in imported goods have been held invalid. (Pp. 140-141). Again, it is shown that the economic effect of an occupation tax on a business selling goods which have already arrived from another state is identical with a tax upon drummers and commission merchants who sell in advance of transportation. Yet the former type of tax has been held valid when non-discriminatory in form, whereas the latter has uniformly been regarded as an interference with interstate commerce. (Pp. 173). These are but a few of the many instances selected and analyzed by the author for the purpose of illustrating the departures of the constitutional law of taxation from ideal economic theory.

The author is equally adroit in showing wherein the judicial decisions are coincident in their operation and effect with economic ideas of sound taxation. For example, in discussing the effect of Woodruff v. Parham, 8 Wall. 123, in which a non-discriminatory state tax on sales was upheld even though the goods so taxed were imported from another state and sold in their original packages, she demonstrates with precision and accuracy the economic soundness of the majority opinion and points out the economic nonsense of the dissenter who feared that the upholding of such taxes would lead to petty warfare between the states by opening the door to taxation which would be discriminatory in fact, because of the absence of local production of the commodity affected, although it might be non-discriminatory in form. She shows that the fact that the burden of such taxation falls upon the consumers in the taxing state operates as a natural and efficient economic deterrent. (P. 161).

Examples might be multiplied to illustrate the manner in which economics and judicial decision are woven together in this book. The problems of taxation are difficult and the concurrent handling of the economics and the law requires both knowledge and skill. The author displays an adequate measure of each quality. Law and economics have developed along rather compartmental lines in the past. There are occasional indications of the breaking down of the boundaries—for example, in Commons, Legal Foundations of Capitalism. The little volume under review is another such indication.
The text is rather fully annotated. The major portion of it consists of the discussion of decided cases and they are handled with precision and understanding. Careful introductory and summary passages are included at appropriate points and are a distinct aid to the reader. The book contains a complete index and a table of cases which increase its usefulness.

Univeristy of Michigan, Law School.

E. Blythe Stason.


With one or two signal exceptions American students of public law have concerned themselves but little to formulate theories in explanation of the legal systems that have been the object of their study. Practical issues raised by contemporary political controversies have for the most part engaged their attention, and where theories have been advanced it has been rather to prove a thesis than to offer a philosophical explanation of legal phenomena. Particularly is this true of the science of international law, whose concrete problems have engaged the attention of American jurists without leading them to an examination of the political ideas underlying the existence of a law between states and to a logical interpretation of its fundamental principles.

It is to such a neglected task that Professor Reeves devotes himself in this series of lectures delivered before the Academy of International Law at the Hague during the summer of 1924. His task, as he describes it, is to "examine the nature of international society," and while keeping the facts of international life clearly in sight to "seek out the basic assumptions or major premises upon which a valid theory may be built, at least in the field of international law."

After surveying the differences that exist between peoples and the elements that constitute separate nationality and statehood, the author turns to the interests which nations have in common and undertakes to build up upon those interests the structure of an international law. International law exists because there is an international society; this society is held together by a body of interests which are the result of the actual contracts of nations; and these interests on their part necessitate the adoption of a rule of law and justify its authority. Professor Reeves thus discards the traditional doctrine of the consent of states as forming the basis of international law and substitutes in its place a sort of social necessity,—a protection which states are led to give to their mutual rights as the inevitable result of living together in the same world.

It is not necessary to follow the author in his particular thesis to agree that he has made a very useful contribution to American political theory. Certainly the idea of consent or contract as forming the basis of international law has played too significant a role in the development of international law, even though it may form the technical legal basis upon which the present system of rights and duties has been built up. Behind consent are, as the author points out, the economic and social forces which make consent imperative, whether it be express or implied. Abstract "rights" of security and in-
dependence on the part of the individual state must be adjusted to the practical facts of international life, and these facts call for concerted action for mutual protection as the only alternative to anarchy. In his closing chapter on International Justice and Public Opinion, Professor Reeves points out the "common interest" not only constitutes a more definite and tangible basis upon which to build up a system of law, but at the same time contains a factor of growth in that it postulates constant changes in the law to meet the new interests recognized by public opinion as common to all nations. Nothing is clearer than the fact that "the economic and social structure of the world does not correspond with the political divisions of states," although this fact is but slowly dawning upon the national conscience of peoples.

_Bryn Mawr College._

C. G. Fenwick.

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Such books as these are evidence that the League of Nations has passed its first stage. Literature to "sell" the League idea, necessary for a time, has given way to legalistic expositions of the powers of the new organizations. Written in the language of a member of the League, they are obviously not intended to influence a non-member state to join.

Hoijer's commentary on the League Covenant in theory and in practice is the more general work. In his introduction the author states the necessary conditions for improving international relations. The body of the work is devoted to a discussion of the Covenant, article by article, in much the same style that many writers have explained the Constitution of the United States. To this is appended a brief exposition of the Geneva Protocol of 1924. The author is not discouraged by the failure to obtain sufficient ratifications. The Protocol's objectives, prohibiting aggressive war and providing peaceful methods for settling all differences, will still be realized.

The protection of minorities, entrusted to the League by several treaties concluded after the war, is also dealt with by M. Hoijer. He concludes with an examination of the work of the League in promoting intellectual cooperation among the nations of the world. It is believed that M. Hoijer's is the most complete and authoritative description of the working of the League that has yet appeared.

The other two works are concerned with one activity of the League, the settlement of international disputes. M. Gralinski examines articles 12, 13, 14, 15, and 17, the Geneva Protocol, and the bilateral treaties of Scandinavian countries providing for conciliation commissions. He denies that because war has always existed it must continue to exist. We are no better than our ancestors, he concedes, but we face a new situation. Juridically, it is as absurd for international law to concern itself with war as it is for a national constitution to authorize a "right of revolution."
M. Mariotte limits his examination of the Covenant to sections seven and eight of article fifteen. He shows how the Geneva Protocol and the Locarno pacts attempt to close the loopholes in the Covenant which might permit recourse to war. In spite of the narrow scope of his subject, M. Mariotte finds opportunity to expound some of the pluralism of his teacher, M. Duguit.

A conspicuous characteristic of the three volumes is their hopeful attitude toward efforts to supplant war as a means for composing international differences.

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HOWARD WHITE.


In addition to the above entitled volume, Burdick's Cases on the Law of Public Service, second edition, Willis Cases on Bailments and Public Callings, second edition, and Smith and Dowling's Cases on the Law of Public Utilities have come from the press during the past three years. This barrage of casebooks in the field of public utility law affords substantial evidence of two things, first, the increasing emphasis placed on the subject in law school curricula, and, second, the fact that public utility law has been changing and expanding with extraordinary rapidity. The latter factor is exemplified in the volume under review by the proportion of recent cases included. Of the two hundred thirty cases edited, one hundred fifty were decided since January 1, 1915.

The editor covers the conventional topics in public utility law, i. e., the category of public callings, the special obligations of public service as to discrimination, rates, facilities and withdrawal from service, and remedies for breach of duty. Approximately two hundred thirty pages are devoted to a special treatment of the duties of carriers and innkeepers, to shippers, passengers and guests.

In addition to the foregoing, the editor departs somewhat from the conventional by including chapters entitled respectively "Special Problems Arising out of Regulation through the Agency of Commissions" and "Interacting Areas of Regulating Authority." These chapters deal briefly with the administrative machinery of regulation, a subject which is being treated in separate courses of "Administrative Law" in many law school curricula.

The text is copiously annotated with notes of the explanatory, as distinguished from the suggestive type. A valuable feature of the book is the extent to which law review material has been cited. References are included to practically all of the articles and notes of consequence in the field of public utility law. The editor also includes a thirteen page bibliography listing the law review material and also most of the special texts dealing with the subject. This feature of the book is distinctive and helpful.

The case book is designed for a four hour course and without a liberal omission of cases it could not be covered in less time.

E. B. S.