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### Legal Responsibilities and Rights of Public Accountants (Book Note)

Boris Kostelanetz

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accounting will not satisfy. Management must be better trained, more competent and less greedy.

This volume was prepared primarily for officers and directors and should be of great value to them. One finds here an appreciation of the functioning of a corporation in action. The law and practice governing fundamentals—dividend payments, rights and liabilities of directors and officers, contracts in which officers and directors are personally interested, corporate mortgages, and rights and remedies of minority stockholders—are thoroughly discussed. The "New Deal" corporation legislation is covered by compact analyses of the Securities Act of 1933, the Securities Exchange Act of 1934, and Corporate Reorganizations under Section 77B of the Bankruptcy Act. A large number of interesting and illustrative forms are included. The book is useful not only to officers and directors, but to all students of corporation law.

L. P.

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GUIDE TO FEDERAL APPELLATE PROCEDURE. By Nathan April. New York: Prentice-Hall, Inc., 1936, pp. xxx, 522.

The jurisdiction of the Federal Government has become so greatly enlarged that federal pleading is an onerous and frequent duty of most of the active members of the bar. Among the most contested factors in federal appellate practice are the matters of writs and assignments of error, admixed with the strange supersedeas. It results in tension that, for the general practitioner carrying on an appeal, relaxes only when the procedural part with its ramifications and requirements has been completely settled.

The present publication is a guide through this maze of technicalities, supplemented by forms, and the Rules of the Circuit Court of Appeals for the Second Circuit; it contains cross-reference to the Rules of the other federal circuit courts, and has an outline of the Appellate Procedure in a "step by step" arrangement. This guiding effect is further enforced by a contrast drawn between the practice in the state and in the federal forums.

The apt hand of a craftsman has taken an unpleasantly routine subject with its rigid and pragmatic regulations and has succeeded in bringing simplicity into their application.

N. P., JR.

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LEGAL RESPONSIBILITIES AND RIGHTS OF PUBLIC ACCOUNTANTS. By Wiley Daniel Rich. New York: American Institute Publishing Co., Inc., 1935, pp. xii, 236.

In a collation of case and statutory law applicable to public accountants, Professor Rich has been able to bring together the legal background of one of the younger professions. Helped by favorable legislation and business needs, accountancy has received mounting recognition during recent years. The courts have spoken upon more than one occasion on the rights and responsibilities of

public accountants. It is therefore surprising that indices of legal and accounting literature reveal a startling paucity on a subject so important to a growing profession. This gap Professor Rich has filled in a scholarly and interesting manner. Accountant's liability for tort, the nature of his testimony as an expert witness, and the law relative to the certified public accountant's certificate are described clearly and in some detail.

However, the author may well be taken to task for his criticism of the ambit of fraud which the New York Court of Appeals set forth in the *Ultramares* case.<sup>1</sup> It is submitted that the court did not "flounder about"<sup>2</sup> and that the responsibility there enunciated is in keeping with the recognition given by society to the expert accountant.

B. K.

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The initials signed to the booknotes are those of Donald F. Sealy, Louis Prashker, Nathan Probst Jr., and Boris Kostelanetz.

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<sup>1</sup> *Ultramares Corporation v. Touche*, 255 N. Y. 170, 179, 189, 174 N. E. 441, 444, 448 (1931), wherein the court stated that "Fraud includes the pretense of knowledge where knowledge there is none \* \* \*. Even an opinion, especially an opinion by an expert, may be found to be fraudulent if the grounds supporting it are so flimsy as to lead to the conclusion that there was no genuine belief back of it \* \* \*. It does not relieve them (accountants) if their audit has been so negligent as to justify a finding that they had no genuine belief in its adequacy, for this again is fraud."

<sup>2</sup> P. 75.