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Probative capacity of accounts in early-modern Spain

Patti A. Mills

Patti A. Mills
INDIANA STATE UNIVERSITY

THE PROBATIVE CAPACITY OF ACCOUNTS IN EARLY-MODERN SPAIN

Abstract: This paper examines the probative capacity of accounting records as explicated in the accounting literature of early-modern Spain. Several early examples of Hispanic legal texts constitute the principal sources. The chief findings to emerge from this study are that legal requirements greatly influenced accounting forms and procedure during this period and that Castilian jurisprudence encompassed a theory and standards of evidence to guide the use of accounting records as evidential matter.

INTRODUCTION

The theory and practice of accounting have over the course of their evolution been profoundly influenced by the law. This relationship is a natural consequence of the social character of accounting activity. As Goldberg has expressed, the fact that accounting practices "are subject to constraints of law is simply a recognition that they are of sufficient significance in the lives of a sufficient number or proportion of people in the community to warrant the attention of the lawmakers" [Goldberg, 1965, p. 9].

The principal sources of legal influence on accounting have been judge-made precedent and, perhaps more obviously, outright legislation.[1] In the common law tradition, precedent exerted the earliest impact, establishing "the foundations as well as many of the specific practices in generally accepted accounting long before statutory legislation" regulated accounting in the areas of taxation, securities, bankruptcy and elsewhere. Those countries dominated by the Roman law tradition, on the other hand, normally made earlier and more extensive use of legislation in formulating accounting rules. In both cases, the use of accounting records and other business documents as legal evidence has influenced the development of accounting thought and practice. It is the purpose of this paper to explore part of the early history of this use in the European, civil law context.

[1]The author is indebted to an anonymous reviewer for providing this insight.

The paper begins by describing the principal sources for the present discussion: sixteenth- and early seventeenth-century Hispanic literature on the probative capacity of accounting records. It also presents biographical information on the authors of these works. The paper then proceeds to a discussion, in broad historical perspective, of how evidential requirements for business transactions evolved. With the scene thus set, the probative capacity of accounting records in Castilian jurisprudence is explored, including types of proof, the concept of sufficient evidence, requirements of form, and the application of evidential standards as explicated by major juridical writers of the period.

THE SOURCES

Because of its growing importance to commercial law, the use of accounting records as evidential matter was the subject of some discussion in premodern legal literature. A number of medieval legists touched on the topic in the course of other works,[2] and in Spain several juridical writers of the sixteenth and early seventeenth centuries addressed the matter, although most only briefly.[3] Three of these men treated the subject in some depth, however, making their works important early-modern sources for the study of accounting and law. These texts are the *Tratado de Cuentas* by Diego del Castillo; *De ratiociniis administratorum* by Francisco Muñoz de Escobar; the *Curia Philippica* by Juan de Hevia Bolaño; and the *Laberinto de commercio terrestre y naval* also by Hevia Bolaño.

First published in 1522, the *Tratado de Cuentas* or *Treatise on Accounts* is the earliest Spanish contribution to accounting literature. Little is known about the life of its author, Diego del Castillo, including his date of birth. A native of Molina de Aragon in the province of Guadalajara, Del Castillo trained at Bologne as a jurist, obtaining the licentiate by 1522 and the doctorate around 1527. He wrote several other works in addition to the *Tratado,* the most influential of which was *Las leyes de Toro glossadas,* the first published commentary on the Laws of Toro. Del Castillo wrote the *Tratado* in order to appraise stewards and estate agents of their legal obligations in the area of recordkeeping, and to instruct them in a general way in proper reporting and

[2]Pierre Jouanique cites the contributions of these men in "La comptabilité dans les decisions de la Rote de Gênes," *passim.*

[3]Esteban Hernández Esteve provides a listing of these writers with information concerning their backgrounds, works and influence in *Contribución al estudio de la historiografía contable en España,* pp. 102-123.

accounting procedures. In part eight of the treastise, he discusses the conditions under which accounts are accepted as proof of the financial realities they purport to represent [Mills, 1986].

The widespread use of deputies, administrators and other kinds of agents in both business and agriculture made the stewardship function a popular theme in the legal literature of early modern Spain. Over the course of the sixteenth century, a number of writers touched on the accounting aspects of the agent-principal relationship, particularly relations in the public domain. Francisco Muñoz de Escobar, a magistrate of the Chancillería of Valladolid, provided the lengthiest and most complete comment on stewardship in his massive work, *De ratiociniis administratorum et aliis variis computationibus tractatus* . . . .[4] The details of the author's life are really no better known than those of his predecessor. A native of Benavente in Zamora, Muñoz de Escobar graduated in law and served in his early career as an advocate or *abogado*, the highest of the ranks in the hierarchy of lawyers that serviced the Castilian legal system. By 1603, the year of his treatise's publication, he had already advanced to the magistracy of the royal tribunal at Valladolid. The date of his birth is thought to be around 1570, which would have made him a relatively young man at the time of his promotion.

In the dedication to his book, Muñoz de Escobar [1646, (:)2v] claimed inspiration for his work from two sources: his reading of Del Castillo's earlier and much shorter tract, which he described as "that little tract . . . composed in the vulgar tongue"; and also the interest Charles V, Holy Roman Emperor and King of Spain, had supposedly expressed in a fuller literary treatment of stewardship accounting for public institutions. Muñoz de Escobar responded at length. In 42 chapters, totaling 650 pages, he explained from a juridical standpoint accounting for property held in agency. He included in the discussion such topics as the kind of information important to record; the types of individuals required to keep accounts; methods of reporting; the specific obligations of administrators as farm stewards, guardians of minor children and in other capacities; and most importantly for the present purpose, the probative force of the administrator's accounts.

Written in Latin, *De ratiociniis* was a popular work, and it saw numerous subsequent editions, the majority of which ap-

[4]For further information on the life and work of Muñoz de Escobar, see Pierre Jouanique, "La vie et l'oeuvre de Francisco Muñoz de Escobar," *Revue belge de la compabilité* (numbers 3 and 4, 1965; numbers 1 and 2, 1966).

peared outside of Spain.[5] The greater appreciation shown for the work outside of the realm than within has been attributed to language. At about this time, literate Spaniards were beginning to display a marked preference for technical works in their own tongue, and this change in taste may account for the author's wider readership outside of the penninsula [Hernández Esteve, 1981, pp. 91-92[.

The work of Juan de Hevia Bolaño may have exercised an even greater influence. An exact contemporary of Muñoz de Escobar, Hevia Bolaño was born in Oviedo around 1570 to an old family of the lesser aristocracy. There remains some mystery surrounding his education. Although a university degree was the normal route to advancement for young men of his class, there is as yet no conclusive evidence that Hevia Bolaño ever underwent university training. That he should have foregone a higher education is surprising, considering not only his family background but also the high degree of erudition displayed in the *Curia Philippica* and the *Laberintho de commercio terrestre y naval.* The point is of itself a minor one, but among those who doubt his academic credentials it has been used to suggest that Hevia Bolaño is not after all the author of these texts [Lohmann Villena, 1961].

In any case, Hevia Bolaño was apprenticed at an early age as a clerk, and it was as a scribe and notary in the royal courts, including the Chancillerías of Valladolid and of Granada, that he probably spent the better part of his professional life. Around 1590 he emigrated to Peru. It was in Lima in 1603 that he published his *Curia Philippica;* the text of the *Laberintho* followed in 1617.

The *Curia Philippica* or *Law Court of King Philip* is not a work of accounting literature *per se* but rather a manual of procedural law. It does, however, make a small but significant reference to the evidential significance of account books. More importantly, the work treats the idea of proof *(prueva)* as used in Castilian jurisprudence and thus, provides a context for the discussion of probative capacity. The author's second work, *The Labyrinth of Naval and Land Commerce,* is a treatise on commercial law, indeed, the first and only treatise on Spanish commerical law until the beginning of the nineteenth century. In this book, Hevia Bolaño devoted two full chapters to the legal issues surrounding accounts and account books, including probative requirements.

[5]The 1646, Nuremberg edition of *De rationciniis* was the text used in the preparation of this paper. Although rather late, it has the advantage of being widely available.

Both works were immediately popular and saw several editions in the first decades of the seventeenth century. Beginning in 1644, the two books of Hevia Bolaño were published conjointly as parts one and two of a single text under the title of the *Labyrinth*. In this form the work became a classic of Spanish legal literature and continued to be published until the mid-nineteenth century [Hernández Esteve, 1981, pp. 83-84].

In using the above texts in historical research, it should be remembered that they are works of legal literature drawn from the Roman or civil law, royal legislation and the opinions of previous scholars. They are not documents produced by the juridical process itself. Consequently, it is open to question whether they accurately portray in all details how accounting records were used in actual litigation. Although outside the scope of the present study, one approach to clarifying the issue would be to compare the literature on accounting evidence to minutes or other documents of relevant court proceedings from the same period. Research of this character has already been undertaken using sixteenth-century records of the Geneose civil court, *la Rote* [Jouanique, 1984, pp. 339-347].

In the same vein, it should also be borne in mind that these texts draw heavily on other sources, most notably the work of medieval and Renaissance legists. Accordingly, many of the ideas they express are unoriginal to their authors. Nevertheless, the particular contribution of these writers was to have identified, amassed and summarized for an early-modern readership a wealth of previous scholarship on the probative capacity of accounts and other accounting related matters.

EVOLVING CONCEPTS OF EVIDENCE

Early business procedure in the western tradition was predominatly oral in character. There is some evidence from the Hellenistic period that written documents played a role in validating contracts in Greece and Egypt. The Romans, however, relied on oral engagements in their business dealings throughout the period of the Republic. This form of the contract, in which the parties recited the terms of the agreement in the presence of witnesses, only gradually evolved into written business procedure. Usher identifies 3 principal stages in this process: the eventual use of written records, along with other types of evidence, as proof of oral transactions; the intergration of the written instrument as an essential step in the transaction process; and finally, the use of oral proceedings as mere preliminary to engagement by a writing. By this juncture, the written

record of a business transaction constituted the only sure basis of legal action in the event of breach. This last form of procedure, which approximates modern business usage, first appeared in Europe during the sixteenth century [Usher, 1943, pp. 28-29].

The transition from oral to written business procedure played an important role in the development of accounting records. While contracts remained essentially oral engagements until well into the medieval period, bankers' account entries were regarded at law as evidence of loans and other financial contracts by the sixth century. The use of book entries as evidence gave the bank journal a legal as well as an accounting function, which caused bankers to observe greater detail in their journal entries than was strictly necessary for merely keeping accounts.

The use of account entries to impart greater force to obligations was eventually adopted in other areas of business, but the records of the bankers long retained a special status. Early medieval laws elevated the banker's journal to the status of a public record, making it similar in probative capacity to the registers of public notaries [Usher, 1943, p. 11]. According to de Roover [1943, p. 150], rules concerning the authenticity of public records were later extended by Italian guild and municipal statues to merchantile account books. There are indications, however, that this practice was observed earlier among the Italian city-states than in other areas of Europe.

By the sixteenth century, the written instrument commanded wide respect in the Castilian legal system as a form of proof in business transactions. This acceptance extended to the account book, however it was not unqualified. Spanish legists feared that if book entries were accepted as obsolute confirmation of indebtedness, unscrupulous moneylenders would be tempted to create fictitious obligations, making "debtors of whomsoever they wish, by the simple fact of noting down in their books" [Hernández Esteve *et al.*, 1981, VII/2-6]. To avoid this outcome, the admissibility of accounts at law was subject to an array of probative requirements.

FORMS OF PROOF AND SUFFICIENT EVIDENCE IN CASTILIAN JURISPRUDENCE

The term most often used in Castilian jurisprudence to signify evidence was *prueva*, proof. *Prueva* was considered first and foremost an investigative process: "an inquiry at law that arises as a result of uncertainty" [Hevia Bolaño, 1609, C.I, para.

17].[6] Nevertheless, legal texts also distinguished types or categories of evidence and referred to them as *prueva.*

Both subjective and more concrete forms of evidence were recognized in civil procedure. The subjective variety contained what Lalinde Abadía [1974, p. 544] has called a "psychological aspect" and included such evidential matter as the oath *(el juramento),* confession *(la confesión),* the testimony of witnesses *(el testimonio),* public rumor of events *(la fama),* and inferences drawn from established fact *(la presunción).* Courts also entertained more objective forms of evidence, the most important of which for present purposes were written instuments.

As with modern jurisprudence, not all kinds of proof carried the same weight. Jurists distinguished between those forms that by their existence confired the point at law and those that merely lent it support. The capacity to induce "full" or "complete" belief, referred to as *plena provance* or *entera fee,* was inherent in centrain types of proof, but in many cases treatment as confirming or supporting evidence depended on circumstances.[7]

For example, in the case of an accounting record submitted as evidence, the contents qualified as confirmatory proof only when it argued against the interzsts of the book's author. In the case of receivables or other transactions favorable to the author, book entries served merely as supporting evidence, or *semiplena provanca,* which induced only partial belief, *media fe.* According to Del Castillo [1522, P. VIII, f. 15r], this dichotomy reflected the wider legal dictum that a defendant "can testify against himself but not in favor." In order to validate the author's claim against a second party, the evidence of the accounts required the support of additional kinds of proof or *otros indicios.* One common form was the oath sworn by the author on the truthfulness of his record.

The oath as a juridical device entered the Spanish legal tradition from both the Roman and Visigothic law. By the later medieval period it had evolved into two forms, the single oath, that of a lone individual, and compurgation, which required the swearor to support his oath with the oaths of a number of

[6]For the purposes of this paper, citations to primary sources are made by author, date of publication, and divisions of the work where numbered. Standard divisions are book (B.), part (P.), chapter (C.), paragraph (para.), and folio (f.) or page (p.). Folios or pages are indicated only where paragraphs are unnumbered. The reader should note that the foliation or pagination of different editions may vary.

[7]For a complete exposition of the hierarchy of proofs in Roman law procedure, see J.Ph. Lévy, *La hiérarchie des preuves dans le droit savant du moyen-age depuis la Renaissance du Droit Romain jusqu'à la fin de XIVe siècle* (Annales de l'Université de Lyon, 1939).

coswearors or compurgators. Compurgation was uncommon in Spain, and it was the single oath most in use [Lea, 1974, pp. 21-24, 74].

Whatever the form, the oath was a means by which a legal question or suit could be commended to God for resolution in the absence of other compelling evidence. The use of the oath in this manner depended on society's belief in the concept of immanent justice, which accepted the possibility, indeed the probability, of divine intervention in human affairs on a regular basis [Peters in Introduction to Lea, 1974, p. 7]. In the case of the oath, it was thought that divine displeasure at an attempted perjury might be regisitered, for example, by preventing the swearor from correctly reciting the words of the oath.

By the sixteenth century, there was apparently sufficient skepticism regarding the efficacy of the oath among legal circles for Del Castillo to relate arguments against its use as a form of evidence. To the contention that an administrator's oath constituted full proof, Del Castillo [1522, P. VIII, f. 14r] responded that according to some sources, "an oath does not make a writing better evidence." It was patently rediculous, these sources claimed, that "all evidence should depend on one lone man," particularly considering that the testimony of at least two witnesses was required as confirming evidence in other types of legal questions. In his own hierarchy of evidence, Del Castillo was unwilling to grant the oath more than medium weight even when coupling it with evidence of the swearor's good standing *(buena fama)* in the community.

Other kinds of proof that reinforced the evidence of the account book included witnesses to a transaction; a judicial sentence ordering payment of an account balance; a receipt or *carta de pago* prepared by a public notary [Del Castillo, 1522, P.VIII, f. 18r]; and a blameless reputation on the part of the author [Jouanique, 1984, p. 340].

DOCUMENT CONDITIONS

Acceptance of the information contained in the account book as true and accurate was not automatic. In addition to satisfying the general probative requirements discussed earlier, the account book had to be written in proper form in order to compel the court's belief in its contents. If the accounts were unclear, confused or in any way unintelligible, they were presumed fraudulent. Lack of detail in posting transactions could also produce an unfavorable opinion. To avoid such an outcome, Hevia Bolaño [1619, B.2, C.8, para. 5] recommended that the

author record for each entry the day, month and year; the amounts involved; a notation as to whether these amounts were in goods or money; the reason for the transaction; the parties and their addresses; and the exchange rate for foreign trade.

Fraud might also be adjudged if original entries appeared to be tampered with through "cancellations, erasures, emendations, interlineactions, reductions, errors or additions" [Hevia Bolano, 1619, B.2, C.8, para. 21]. Erasure was permitted in a single instance, however. It was customary to write the owner's name at the beginning of the book. In the case of a partnership, the owner's name and the tag *"y compañeros"* was the normal inscription. Should this indication of partnership no longer be needed, because of dissolution of the relationship, for example, it could be erased without danger of falsifying the book's contents [Hevia Bolaño, 1619, B.2, C.8, para. 4].

Another recommendation was to avoid blank pages. The intended effect of this practice is unclear, but it may have been meant to dispel any impression of omissions in the record. Paciolo in his treatise *Summa de arithmetica, geometria proportione et proportionalita* made the same recommendation, but unlike Hevia Bolaño explained the procedure:

> When an account has been filled and you cannot enter any more debit or credit items, you must carry immediately this account forward to a place behind all the others. Leave no space in the ledger between this transferred account and the last of the other accounts. To do otherwise would indicate fraud in the book [Brown and Johnston, 1963, p. 85].

Paciolo advised in addition that all pages of any business book be numbered and signed, in order to discourage charges that leaves had been excised.

Receipts *(el recibio)* first was the preferred arrangement of accounts in the ledger, but bad ordering was tolerated to a certain extent and did not necessarily result in falsification of the contents [Hevia Bolaño, 1619, B.2, C.8, para. 22].

It should be noted that important though form was to probative capacity, the air of authenticity it lent to a record could be superceded by presumptive evidence. For example, even though correctly entered and ordered, a set of accounts might still fail to induce belief if in the court's opinion the receipts and expenditures they represented appeared unreasonable or improbable. According to both Del Castillo [1522, P. VIII, f. 17r] and Hevia Bolaño [1619, B.2, C.8, para. 21], the weight accorded to this presumptive evidence depended on the magnitude of the

amounts involved. Small items of expenditure might pass as factual merely on the basis of the court's surmises regarding their reasonableness, even if confusedly written or lacking in detail. Verisimilitude, on the other hand, was but one among several criteria applied to material amounts.

During the second half of the sixteenth century, legal writers added an important new requirement for properly constituted mercantile accounts — use of double-entry accounting or bookkeeping *por deve y ha de aver.* This stipulation accurately reflected royal law. As early as 1549, royal decrees imposed on merchants and bankers the obligation to keep their books according to the newest method, and the injunction was repeated in later legislation.[8] It should be noted that Spain was the first country in Europe to make use of double entry a legal obligation.

The addition of double-entry accounting as a requirement of form is the single most striking difference between Del Castillo's treatment of probative capacity and the contributions of later juridical writers. Writing in the third decade of the sixteenth century, prior to promulgation of the pertinent legislation, Del Castillo briefly mentions the three types of bookkeeping known to him —*por data y rescibio, por cargo y descargo, con deve y deve aver* — without making adherence to any particular form a probative requirement [1522, P.I., f.3v]. Although accounting *por deve y deve aver* has been identified as at the minimum a close precursor of double-entry bookkeeping, the few subsequent remarks in his treatise on bookkeeping methods concern the more rudimentary forms. One of the consequences of this position is that Del Castillo's text makes no reference to an account book auxiliary to a book of original entry. Nevertheless, his successors were sufficiently familiar with the mechanics of double-entry accounting to draw some distinction between the journal *(libro manual)* and the ledger *(libro de caxa)* in their treatment of accounting records. As the book of original entry or protocol, "which gives rise to the ledger," [Salvador de Solórzano, 1590, C.2, f.2r], the journal was considered in theory superior in probative capacity. The primacy of the journal was upheld in practice by the Genoese civil courts, which also demanded precise agreement between journal and ledger [Jouanique, 1984, pp. 333, 341].

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[8]Esteban Hernández Esteve discusses Castilian legislation of the period related to accounting in "Castilian laws of the Lower Middle Ages and beginning of the Renaissance related to merchants' accounting and account books," paper presented to the "Journées Internationales d'Histoire du Droit" (Valladolid, 1981).

THE APPLICATION OF PROBATIVE REQUIREMENTS

Depending on circumstances, the application of evidential requirements could be undertaken piecemeal, that is, on a transaction by transaction basis, or encompass the accounting record as a whole. According to one source, if the account book recorded a variety of largely unconnected transactions, arising from "diverse enterprises and diverse persons," acceptance of a transaction or group of transactions as proven did not imply acceptance of other entries [Muñoz de Escobar, 1646, C.XIII, para. 7]. On the other hand, where an account book was kept from "the necessity of the office or ministry" as in agential recordkeeping, the record was either accepted or rejected as a whole. [Muñoz de Escobar, 1646, C.XIII, para. 10]. It should be noted, however, that the admissibility of presumptive evidence made consideration of any part of an accounting record in complete isolation unlikely. A previous demonstration of fraud or of good faith in one portion of a record could serve as evidence that other parts were similarly affected [Muñoz de Escobar, 1646, C.XI, para. 22].

The dichotomous principle that guided the use of accounting records as evidential matter applied in its entirety to the ledgers of merchants and other private individuals. The records of licensed moneychangers, public bankers and government were exempt, however. Castilian jurisprudence clearly recognized the importance of banking and government finance, and the practical difficulties that would ensue in their pursuit should the collectibility of debts and taxes depend on adherence to legal forms. Accordingly, it made the accounting records associated with these activities complete proof of the transactions they represented, whether receivables or payables. This high degree of probative capacity also characterized the records of public notaries introduced as evidence in legal proceedings. The Genoese civil court accorded public banks and the customs the same privilege during the sixteenth century [Jouanique, 1984, p. 341].

The standard of evidence applied to agential accounts depended on the function of the particular administrator or steward. The agents of private individuals or corporate bodies, such as churches, monasteries and hospitals, labored under the same burden of proof as merchants; their records served only as supporting evidence in claims against principals or third parties. Government agents, including accountants in royal employ, most tax collectors and assayers of the coinage, enjoyed the special status regarding full probative capacity conferred on the

accounting records of publicly constituted bodies and licensees. This status extended only to their official activities, however, and not to transactions of a personal nature [Hevia Bolaño, 1619, B.2, C.8, para. 9].

Where a bookkeeper was employed, the discrepancy that resulted between ownership and authorship of a record did not affect the application of probative requirements. In such cases the presumption was automatic that the book's contents accurately reflected the "will and consent" [Hevia Bolaño, 1619, B.2, C.8, para. 3] of the owner or principal. Presumptive evidence alone constituted sufficient support for this conclusion and made other indications of the owner's real intentions, such as a witness' testimony, superfluous. The only action necessary to preserve the assumption intact was that the bookkeeper retain the orignial record in his possession and send only copies to principal, partners and other parties with legitimate interests. Earlier, Salvador de Solórzano [1590, C.XVII, ff. 30v-31r] in his treatise *Libro de caxa y manual de cuentas* stipulated that in addition the account had to "pass through one hand" — have one recorder only — and that this individual possess considerable skill in the art of bookkeeping. In the Genoese civil court, *la Rote,* the discovery of more than one hand in the journal was considered sufficient grounds for rejecting the book [Jouanique, 1984, p. 340].

The general theory of evidence as applied to accounts was expounded, first, by Del Castillo and later by both Muñoz de Escobar and Hevia Bolaño. Based on Roman law, royal law, and the analyses of previous scholars, it appears to have constituted the majority opinion among legists. Naturally, there were dissenting views. According to Muñoz de Escobar [1646, C.XIII, para. 31], some jurists believed that questions of proof should be left entirely to the arbitration of a judge, who would make his own decision based on the verisimilitude of the accounts, the reputation for honesty of their author, and the materiality of the amounts. Others argued that mercantile accounts in particular merited the same degree of belief whether they spoke for or against the financial interests of their author. In some areas of Europe such treatment was the custom; Muñoz de Escobar [1646, C.XI, para. 14] explained that where this practice was common, it was as an accommodation to "commercial utility" even though contravening the fine points of the law. In Genoa, mercantile accounts were routinely accepted as evidence when they compromised the interests of their author, but the civil court displayed less consistency in its opinions when account books

were introduced in support of their owners [Jouanique, 1984, p. 343].

It should be noted that the legists quoted by Muñoz de Escobar were concerned with the evidential requirements derived from royal law and administered in royal courts. Spanish merchants as litigants also had access to special commercial courts, the *Consulados de Mar* [Smith, 1940, pp. 18-33]. According to Muñoz de Escobar [1646, C.XI, para. 14], the standards of evidence applied to mercantile account books by the consuls, or judges, of these bodies were less circumscribed by legal niceties than those employed in the royal courts. Consular justice relied instead on the more straightforward criterion of "good and equity" as a basis of judgment, intending thereby to facilitate the settlement of commercial disputes and commercial dealings in general.

Notwithstanding the impression conveyed by Muñoz de Escobar, the royal law was not totally devoid of consideration for commercial utility. In terms of evidence, for example, it made the ledger of a trading partnership *(societas)* complete proof regarding matters between the partners, an arrangement calculated to smooth commercial operations [Muñoz de Escobar, 1646, C.XII, para. 1].

CONCLUSION

This paper has examined the evidential capacity of accounting records in the jurisprudence of early modern Spain. Several early examples of Hispanic legal literature have comprised the principal sources.

A number of findings have emerged from this study. Principal among them are:

(1) legal requirements greatly influenced accounting forms and procedure during this period;
(2) Castilian jurisprudence encompassed a theory and standards of evidence to guide the use of accounting records as evidential matter;
(3) this theory distinguished between the use of accounts as supporting and confirming evidence, and also supplied standards of form.

In addition to these particular findings, the significance of the present work to accounting history in general is twofold. First, this study should serve to encourage further research in two relatively neglected areas of the discipline — Spanish accounting history and the history of accounting and law. It also suggests

that in preindustrial society probative and other legal requirements may have been as influential as the needs of business decision making in determining the form, content and treatment of accounting records.

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