

10-1935

"An Inevitably Mediocre Bureaucracy"

A. C. Littleton

Follow this and additional works at: <https://egrove.olemiss.edu/jofa>



Part of the [Accounting Commons](#)

Recommended Citation

Littleton, A. C. (1935) "An Inevitably Mediocre Bureaucracy," *Journal of Accountancy*. Vol. 60 : Iss. 4 , Article 4.

Available at: <https://egrove.olemiss.edu/jofa/vol60/iss4/4>

This Article is brought to you for free and open access by the Archival Digital Accounting Collection at eGrove. It has been accepted for inclusion in Journal of Accountancy by an authorized editor of eGrove. For more information, please contact egrove@olemiss.edu.

“An Inevitably Mediocre Bureaucracy”

BY A. C. LITTLETON

I have been of the opinion that sound legal principles have been developed out of long debate, and that the accepted principles of economic theory have been tried in the fire of controversy. On that basis, and since the impression persists that accounting writers have been exceptionally considerate of each other's opinions, I have thought that accounting literature would benefit from more arguments.

Well, the man who puts his neck out ought not to be surprised if . . .

Because of the novelty of the ideas sketched in the article in the April number of *THE JOURNAL OF ACCOUNTANCY* on “Auditor Independence,” the proposals not only are open to criticism but they deserve plenty of it. I hope Dr. Hunt's contribution is merely the beginning, for after all the question is as broad as the welfare of the profession; and after the criticisms constructive suggestions will no doubt follow.

Dr. Hunt makes two principal points: first, that my views of English practice are mistaken, and, second, that my proposals, if adopted, would “bind accountancy in fetters of an inevitably mediocre bureaucracy.”

In regard to the first, which is the point given most emphasis by the critic, the answer is direct and simple. As an inland provincial I would not be so bold as to claim direct personal knowledge of British audit practice, nor would I maintain that I had made any consistent study of recent developments in company law. In these matters I have drawn upon secondary sources, especially Miller and Campbell, *Financial Democracy*. If their impression was in error that British investors were not entirely convinced of the auditor's complete independence, and if they were mistaken in their belief that British court decisions had circumscribed the theory of the auditor's duty, I am sure they, like all reputable authors, would appreciate being set aright. But I wonder if Dr. Hunt's discussion would convince them. In fact, by a close reading, his quotations and arguments could probably be turned back against him and in support of the joint authors' contentions.

With that matter, however, I am little concerned, being, as it were, just an innocent bystander within the line of fire. But the second criticism, the one so dramatically phrased, brings me up a-standing, one might say, for I want no part in binding fetters upon anyone—or anything. That is why I would never run for county sheriff. And "inevitably" is such a certainty in this uncertain world of change that it would quite undermine my whole philosophy if I accepted it. As for "mediocre bureaucracy"—well, that is what I want to discuss.

It looks as if the word "licence" were more of a hobgoblin than I had realized. Maybe it was an unfortunate choice; but nothing more was intended than to suggest a formal listing of professional accountants who had satisfied the proposed board of review or accountancy court of their qualification to certify under the securities and exchange acts, very much as attorneys are admitted to practice before the courts, with the possibility of subsequent disbarment for cause.

The word "licence" somehow tends to merge into "regimentation," and that, I judge by the newspapers, is practically a fighting word in some places. Thus the hobgoblin word becomes a bugaboo word. But really the cry of "regimentation" is already quite passé. We are rapidly losing our jumpiness when it bobs up. I think the reason is the simple one that the conviction is growing in most of us—especially since the United States supreme court's decision in the Schechter case—that the American people possess a profound unwillingness to be regimented.

If I lacked faith in this characteristic of Americans, or if I were closer to Washington, perhaps I would not be so complacent in the face of such words as licence, regimentation, bureaucracy. But, as it is, I can not raise much temperature about them.

Now as to whether or not the proposed accounting board of review *must* be a "mediocre bureaucracy."

Dr. Hunt doubts that such a board or court could draw to its service a personnel of the highest professional calibre. If it is a fair question, I would like to ask, Why not? Would it be because the profession contains no one willing to devote a span of years to public service? Because there is none who could financially afford to retire from practice? Because among accountants there are too few men who are capable of facing questions of considerable import with good sense and sound judgment? Because pro-

fessional accountants lack the judicial temperament necessary to impartial, unbiased decisions?

My critic offers no such explanations of his position as these questions imply. But if he wishes to maintain his point about "mediocrity" he will need to face such questions. If he wishes to avoid creating the impression that he holds an extremely low opinion regarding the quality of the profession's top-man personnel, he will need a clearer statement of his position.

The good doctor is distressed by the spectre of political interference. He writes: "Is it presumptuous to inquire what there is in the past experience of our country, or in the visible future, which would guarantee that appointments to (or under) such a commission would be free from political interference . . .?"

What is there in the proposal as outlined to suggest that the accountancy court would be a short-lived "commission" staffed by expedient, political appointments? Was it the method of nominating possible appointees? Was it the suggested source of the personnel? Or was it the attempt to place the members of this court beyond economic pressure and threat of removal that was objectionable?

The proposed source of the court's personnel was a list of men—"the best that the accountancy profession could produce of broad education, varied experience and judicial temperament"—nominated by the accountants' national organizations. No better source is suggested by the critic. If a better plan is offered than appointment by the president of the United States, it would be easy to consider it on its merits. If long appointments, generous salaries and substantial retirement pensions will not help to make the members of the court truly independent, some other devices for accomplishing that objective might be proposed. But I confess that is the best I can think up.

Perhaps the flaw of the plan lies in the conditions proposed for granting individual accountants the privilege of practising under the accountancy court. But why would it be objectionable to require that statements for investors' guidance shall be prepared and certified by men who are qualified for this type of work "as indicated by their education, experience, state certificate and professional connections"? None of these elements would be hard to determine and not one of them, surely, is an unreasonable qualification. If membership in a professional body is a burdensome condition precedent, no great harm would be done by drop-

ping it. But what good its omission would accomplish needs an explanation from whosoever would advocate dropping that provision. The same could be said about an oath to "disclose the full facts clearly and express his professional opinion fearlessly in behalf of all parties at interest."

Perhaps those who could not qualify under these three simple tests can be prevailed upon to enter the discussion.

The possibility of an involuntary termination of the privilege of certifying to this class of statement seems to bother the critic. "Tenure" is the word, I think, in England. Should an accountant go unpunished if found guilty by a court of his peers of a definite neglect of professional duty? Should the punishment be the same for minor neglect as for major neglect? It was proposed that temporary suspension of the privilege of doing this type of work should follow conviction in the former case, and permanent loss of licence to certify under the acts in the latter. If it seemed better to use suspension for all cases of neglect, that is a variation which ought not to be hard to compromise. Could not the accountancy court perform a distinct service if it were also given authority to decide whether the evidence raised the presumption of connivance by the auditor in the issue of a false financial statement or in the concealment of fraud in the accounts? Neglect of full professional duties would be settled here, but if fraud seemed in question, the issue should be referred to the regular law courts for trial.

If an additional measure of professional independence were to be secured, he would be a hardy man indeed who would object to accepting definite liabilities as a quid pro quo, especially if they were as mild and reasonable as the ones suggested. Is my independence the freedom to do strictly as I please? Is professional independence merely a proudly-held privilege of resigning from the last engagement on the docket?

If the criticisms of Dr. Hunt were really directed, as they may seem to be, at the personnel and objectives of the proposed board of review or accountancy court, one could easily become concerned. If a court formed as outlined does in fact promise to become "an inevitably mediocre bureaucracy," then I can only say that that dictum comes perilously close to containing an implied slander upon the men, who, being morally, intellectually and professionally at the top of accountancy, would be the ones eligible for appointment under this plan.

But after all, that is just a dramatic phrase. The critic, I am convinced, does not believe that there are no men in the profession qualified for high responsibilities or that these men could not be persuaded to serve their profession and the nation in such a way—with or without “a not inconsiderable lure of fat pensions.” I am persuaded that the thing which really agitates the critic, though he does not succeed in making it very clear, is the connection which the plan seems to provide for tying the accountancy court and practising accountants to the securities and exchange commission. That is the only explanation I can see of the fear expressed of a possible regimentation of accountants by a bureaucracy of civil servants.

It is true that the original proposal spoke of auditors being licensed under the securities and exchange commission. But if it should be better, in the opinion of leaders of the profession, that the accountancy court be set up first and qualified auditors licensed by it to certify to the statements required by the securities and exchange acts, that would be an acceptable modification of the plan.

In another place in the original proposal it was suggested that the auditor's duties be outlined in general terms by regulations of the securities and exchange commission. Perhaps it would be better if the statute itself stated the auditor's duty in broad terms, such as:

1. To examine corporate records and accounts in order to judge whether or not they consistently reflect the principles of good accounting.
2. To scrutinize security contracts, examine proposals to change the financial structure and study all financial valuations or operations in order to judge whether the principles of sound finance were being followed or not.
3. To follow up the accounting of new financing in order to see if the use made of the funds was as stated in the prospectus.
4. To present and certify a full, clear statement of the present financial condition, including a careful indication of the types of security contracts outstanding.
5. To present a full, clear statement of income for the current fiscal period as well as an analysis of past surplus and a certification of the earned income of the past three years.

With such a statute as the basic law, the accountancy court would gradually establish precedents regarding auditors' duties

through its rulings on the cases brought before it. This approach would dispense with the necessity for any regulations by the securities and exchange commission regarding the technical duties of auditors. No one, surely, need fear the trend of the rulings of his peers in professional matters. Such a court would be better prepared to comprehend the issues than one in which the personnel was untrained in accounting. And it would probably be easier to find accountants also educated in law (for nomination to the court) than it is to find attorneys also educated in accounting for places as judges in the regular law courts.

The original proposal also spoke of the accountancy court as "an adjunct to the securities and exchange commission." There would, of course, be no objection to making it a companion body rather than an adjunct—it would then be available to the commission as well as to others as a court on accounting matters. There is no lack of precedent for such an arrangement. It is a modernization of Lord Mansfield's practice. When that jurist was doing his great work of building the English mercantile common law he made very effective use of men well versed by long experience in the customs and accepted standards of trade. The present securities and exchange commission has already shown that it is disposed to consult with those in a position to have special knowledge; and there seems no reason to believe that such a disposition might not be extended in an organized way through the submission of questions at issue to an established accountancy court or board of review.

If the hypothesis is true that Dr. Hunt's criticism relates fundamentally to the way the original proposal seemed to tie accountants tightly to the securities and exchange commission, perhaps the modifications suggested above may meet that objection. If the proposal as modified is an improvement over the original, it has been made so by the criticism offered. If it is still faulty, more discussion will be in order.