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## Book Reviews

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## Book Reviews

ANALYZING CHECKING ACCOUNTS SCIENTIFICALLY, by FREDERICK W. HETZEL. *Bankers Publishing Company*, New York. 111 pages. 1936.

This volume has been written for the benefit of bankers, and the author has dealt clearly and concisely with a problem which has caused considerable controversy. His explanations and reasonings leading up to the application of formulas and the tabulation of results obtained therefrom are thorough and well founded, and should be readily applicable to all conditions.

The application of the tables in order to ascertain the charge to be made to accounts with deficiency balances and the credit to be given those with excess balances, and so to enable the banker to maintain a fair treatment to depositors, should prove very useful, especially in respect to those accounts in which there is a substantial balance maintained and large numbers of items are handled. At the present time when the income of banks from other sources has been considerably reduced and service charges are required to produce income, it is preferable that these charges be made on a sound basis. Mr. Hetzel's contribution to this end should therefore be of use to all bankers.

M. W. MACLACHLAN.

WHOLESALE ACCOUNTING AND CONTROL, by J. BROOKS HECKERT and IRVING J. STONE. *McGraw-Hill Book Co.*, New York. Cloth, 234 pages. 1935.

Like most of us (except "political exploiters" perhaps) wholesalers are doing some intensive thinking on how to make both ends meet. As a timely aid comes *Wholesale Accounting and Control* in which the pedagogical theory of a university professor and the practical experience of a controller of a wholesale house are united in a happy combination.

It is safe to say that the average man thinks of wholesalers as a few bloated corporations which exact unholy profits from retailers and consumers for unnecessary services. He would probably be surprised to learn from the United States census of 1929 that, eliminating concerns selling to industrial processors and ultimate consumers, there were some seventy thousand wholesalers whose sales to over a million retailers approximated twenty billion dollars, and whose employees numbered around seventeen hundred thousand individuals. Very few have capital running as high as a million dollars, most of them ranging from \$50,000 to \$100,000.

For these smaller concerns it is the aim of the authors to give helpful suggestions as to accounting, organizing, analyzing and control in order to cut expenses, eliminate waste and ascertain the relative profitableness of individual salesmen and customers. The book is not an exhaustive treatise, nor does it pretend to be; but it is a practical manual based on sound principles.

W. H. LAWTON.

ACCOUNTING—ELEMENTARY THEORY AND PRACTICE, by RICHARD NORMAN OWENS and RALPH DALE KENNEDY. *D. Van Nostrand Company, Inc.*, New York. Cloth, 687 pages. 1936.

Worthy to be ranked with the best is *Accounting—Elementary Theory and Practice*, a text for a two-year course at the George Washington university,

Washington, D. C. It follows in the main the usual arrangement of topics and procedure as found in standard authorities on accounting. Further description is therefore hardly necessary except to say that the illustrations of journal and other book entries are unusually full and clear. The authors evidently feel that one page of illustration is worth two of textual description.

The questions and problems at the end of each chapter and the practice sets in the last part furnish ample tests and laboratory work for the student. Occasionally a question is asked for which there does not appear to be any basis for a correct answer in the preceding text. (E.g., questions 1 and 10, chap. XII.) Unless the student has other sources of information, such as a concurrent course in business law, he could hardly be expected to know the answer.

W. H. LAWTON.

LEGAL PROTECTION OF GOODWILL, by FRANK S. MOORE. *The Ronald Press Co.*, New York. 218 pages. 1936.

*Legal Protection of Goodwill* is both practical and scholarly, useful alike to the layman and to the lawyer who is not a specialist in the law of unfair competition of which trade-mark law is a subdivision. It is useful to the layman because it explains and illustrates the nature of goodwill and the absurd shortsightedness of not protecting it; it is useful to the lawyer in general practice because it contains over 550 citations of decisions, many of which are analyzed and discussed, and numerous citations of statutes and references to legal and other text-books. It would be of interest also to the specialist because of the author's discussion of many of the leading cases.

A table of contents shows the principal topics discussed in each chapter, an appendix lists the cases cited in each chapter, and eight double-column pages contain a well prepared index. In the next edition, it would be an improvement to add a table of cases by names showing the page of the text where each case is cited. In its present form, it is difficult for one to follow a line of cases and to ascertain the author's ideas of their soundness and applicability.

The text consists of 190 pages devoted to explanations and discussions of the nature and importance of goodwill as a commercial asset; the characteristics of a technical trade-mark and how title to one can be obtained; the use of a proprietor's name as a trade name; what constitutes unfair competition and how marks or devices which are not technical trade-marks can be protected after they have become known as related to a specific product; proper advertising; the protection afforded by copyrights; the advantages derived from the use of a technical trade-mark; what marks can be registered under federal and state laws and the effect of registration; how goodwill can effectively be transferred; what constitutes infringement and the available remedies; how goodwill can be expanded by increasing the variety of products and by entering new territory; how trade-mark and similar rights are lost; and the present administrative tribunals and the general procedure in each of them.

One of the valuable ideas which the book gives to the layman, and to lawyers who have had little contact with the subject, is that registration of a trade-mark, while highly desirable, is not required as a matter of law and confers no sort of title or ownership upon the holder of the registration. A person who in good faith first uses a technical or true trade-mark upon his product in the regular course of business, intending to continue such use, thereby acquires title to

the mark. Registration in the United States patent office is of enormous value in any subsequent litigation, but it does not confer title to a trade-mark. Such a mark is merely a device to identify the capital asset goodwill and it is the asset goodwill which the law seeks to protect against unfair competition. A technical or true trade-mark is a distinctive, fanciful and arbitrary name, design or mark which purchasers can learn to recognize as a commercial signature.

Another valuable feature of the book is its explanation of how a name which can not constitute a technical or true trade-mark may nevertheless be afforded partial protection under the doctrine of secondary meaning. Such names commonly are personal, descriptive or geographical, such as Baker's chocolate, shredded wheat, and Elgin watches, and unless their use falls within the limitations of the doctrine of secondary meaning, one who uses them on his product can not prevent another Baker from making chocolate, another person from shredding wheat or selling watches stated to have been made in Elgin. The secondary meaning which the name must have acquired is that the name denotes in the public mind that a product described by it is made by a specific manufacturer or distributed by a specific dealer. Thus a name, which originally anyone could use, has now acquired a new (and secondary) meaning in the mind of the purchasing public and the law seeks to prevent a competitor from trying to mislead the purchaser into buying the competitor's product when the purchaser wants to buy the product of the producer whose name or descriptive or geographical title has become known to him. The territorial limitations of this doctrine are clearly indicated by the author.

The most practical bit of advice to the business man is that concerning the preservation of records, documents, advertisements, specimens of his trade-mark and samples of his product which will enable him to prove the date when he first used the mark on his product. The more valuable the goodwill and the more it cost to acquire, the more probable it is that, years later, infringement will be attempted. If the proper evidence has not been preserved, it may be impossible for the real owner of the goodwill to prove that he was the first to acquire title to the name or other trade-mark on which the goodwill is based.

The most valuable constructive idea in the book is the author's plea for the establishment of a federal central bureau in which copies of all trade-marks, whether or not the marks are registerable, must be filed. As it is today, it is absolutely impossible by any method of search for one to be sure that he will not become an innocent infringer when he uses what he believes to be a new trade-mark or extends the sale of his trade-marked product into new territory. However one may feel about centralized bureaucracy, there surely can be no objection to this commercial safeguard, necessitated chiefly by our imaginary state lines. The author reveals himself to be somewhat of a Tory when he says that an amendment to the federal constitution might be necessary before such a bureau could be established — he allows his knowledge as a lawyer to interfere with his social ideals.

HAROLD DUDLEY GREELEY.