

BOOK REVIEWS

THE MANUAL OF CORPORATE GIVING. Edited by Beardsley Ruml in collaboration with Theodore Geiger. Washington, D.C.: National Planning Association, 1952. Pp. xi, 415. \$6.75.

Vast and fundamental changes are taking place in America's economic life. These changes require us to re-examine and re-evaluate our traditional concepts and beliefs about the place of business in our society. Too often we use the clichés of the mythical laissez faire regime when those clichés are totally inaccurate, and indeed dangerous, in describing the objectives and functions of business and industry. Certainly, our business life is motivated by profits, both actual and potential. At the same time, our concepts of profits have changed. The fast, exploitative "buck" is not the motivation that has built our productive economy. The notion that all men are "economic men" motivated *only* by thoughts of gain is being flatly rejected by thoughtful businessmen.¹ By the same token, it is an error today to say that *all* businessmen make *all* business decisions *solely* by asking the question: "How much profit will be made?" The emphasis is important. As pointed out by Peter Drucker in *The New Society*, the goal of business can be more correctly described by the concept of "profitability" than by the concept of "profits." Courtney C. Brown, a director of Esso Standard Oil Company, recently observed:

. . . Indeed, the motivations of business management are no longer the same as those of the classical 'economic man,' who both owned and controlled his properties for a single lifetime at most.

There has been an enlargement of motivation. It must include, of course, a profitable operation, else the enterprise could not continue as a healthy and important contributor to the enlargement of economic well-being. But the assumption made in the early textbooks for the economic man, who by nature was expected to attempt to maximize immediate profits at all times, is no longer valid.

The modern professional business manager is primarily interested in the healthy continuity of the enterprise which he is charged with managing.²

Numerous factors have led to this change, *e. g.*, the separation in many instances of ownership and management, the wide distribution of ownership,³ the huge sums required for research and development of new products, and the interdependence of virtually all portions of our economy upon the efficiency and well-being of the whole economy.

This change in the role and objectives of business has been gradual. It has not been too well recognized even by those most directly affected by it. Today, however, many observers are pointing out the implications of business's changed role. Witness such books as: *A Creed for Free Enter-*

1. See HUMAN RELATIONS IN MODERN INDUSTRY, a guide for action sponsored by John D. Biggers, Curtis E. Calder, Erle Cocks, Frank M. Folsom, Robert W. Johnson, Herman W. Steinkraus and Jack I. Straus.

2. Brown, *Toward a New Business Philosophy*, The Saturday Review, Jan. 24, 1953, p. 11.

3. See KIMMEL, L. H., SHARE OWNERSHIP IN THE UNITED STATES (1952).

prise by Clarence B. Randall, *Creating an Industrial Civilization*, edited by Eugene Staley, *The Big Change 1900-1950* by Fredrick L. Allen, *The Fundamentals of Top Management* by Ralph C. Davis and *Big Business: A New Era* by David E. Lilienthal.

Business periodicals like the *Harvard Business Review*⁴ and *Fortune*⁵ repeatedly carry articles discussing the responsibilities of business and industry. Today at meetings and conferences like those of the American Management Association⁶ businessmen are earnestly probing the functions of business in our total society. One of the most provocative series of discussions has been the American Round Table sponsored by The Advertising Council which considered such topics as *The Basic Elements of a Free, Dynamic Society*.⁷

Many business decisions are made today only after consideration has been given to what the effect of those decisions will be upon the community. This does not mean that the efficient operation of the enterprise is not management's first responsibility as Dean Donald T. David of the Harvard Business School has pointed out:

I feel strongly that operating a successful business is the first responsibility of a business leader. The simple fact is that in our society the businessman is primarily responsible for organizing the production and distribution of the nation's goods and services. He can meet that responsibility only through the competent management of business enterprise and through the creation and development of healthy business concerns. To me it is unrealistic to presume that the business leader can discharge any other responsibility if he fails in this, his foremost job.

We must not forget that in the performance of this responsibility, the businessman is concurrently performing a basic social responsibility. The efficient production and distribution of goods and services is what gives us our high standard of living, our leisure time and many of our cultural opportunities.⁸ In creating and developing healthy organizations, businessmen must necessarily be concerned with many other facets of the community. For instance, if our schools should fail to train men adequately to be scientists, engineers and doctors, what would be the effect of such inadequacy upon business organizations dependent on these professional men? The continued vitality of business is dependent upon the effectiveness of our educational institutions. Consequently, many companies and foundations (created by businessmen or by corporations) have devoted considerable attention to meeting the problems of our schools and colleges.⁹

4. See, e.g., Collier, *Business Leadership and a Creative Society*, 31 HARV. BUS. REV. 29 (1953); Ragan, *Industrial Foundations and Community Progress*, 30 HARV. BUS. REV. 69 (1952).

5. See U.S.A. *The Permanent Revolution*, *Fortune*, Feb. 1951, p. 61; Burck, *The Story of Standard Oil Co. (N.J.) as a Case Illustrating the Transformation of American Capitalism*, *Fortune*, Oct. 1951, p. 98.

6. See AMA GENERAL MANAGEMENT SERIES NO. 163, MANAGEMENT'S BROADENING RESPONSIBILITIES.

7. See also The American Round Table report of the sessions on *An Examination of the American Economic System*.

8. Turck, *The American Explosion*, *The Scientific Monthly*, Sept. 1952, p. 187.

9. See Pollard, *Corporation Support of Higher Education*, 30 HARV. BUS. REV. 111 (1952).

The direct financial support of educational, scientific, cultural and charitable activities by corporations presents some difficult problems. What authority does a corporation have to make a contribution to such activities? The common law permitted gifts only when they would be beneficial to the corporation's purposes or contributed to its interests. Stockholders could (and still can) question whether the gifts affect the "profits." Many states have enacted legislation permitting certain types of philanthropic gifts. Also, the changed concepts of corporate responsibility have led to a much broader concept of what is beneficial to the corporation. What about tax deductibility? Prior to 1936 tax deductions could be taken for charitable contributions only if the contributions could be justified as a business expense. The Revenue Act of 1936 enacted what is now Internal Revenue Code Section 23(q). This section permits a corporation to deduct charitable contributions, as defined therein, without justification as business expenses up to a total of not more than five per cent of a corporation's net earnings before taxes. This means, of course, that the Government subsidizes a large portion of a corporation's charitable gifts. If a corporation is paying a maximum tax rate of 82%, the actual cost of each \$1.00 charitable contribution is 18 cents.

In 1951 the National Planning Association published a pamphlet by Beardsley Ruml and Theodore Geiger entitled *The Five Percent*. This pamphlet pointed out that as a result of the high level of corporate profits and high tax rates, corporations could benefit both themselves and the community by a sound utilization of the allowable five per cent deduction for charitable contributions. After publication of this pamphlet, its authors and the National Planning Association received numerous inquiries for more detailed information about the possibilities and the utilization of the five per cent privilege. *The Manual of Corporate Giving* has been published to supply some of this information.

Part I of the *Manual* considers questions of policy and administration. Two of the chapters are by the editors, Beardsley Ruml and Theodore Geiger. One of the most significant potentials of the five per cent is that it offers business an opportunity to preserve "to the maximum possible extent the decentralized and private character of the decision-making process in all phases of our national life." Centralized control of the development of new ideas in education, science and culture unquestionably jeopardizes the richness of individuality which is essential to the development of our culture.

Harry J. Rudick contributes a lucid and valuable chapter titled *The Legal Aspects of Corporate Giving*. An appendix to this chapter contains some forms that will be useful to lawyers who might have problems in this area.

Part II of the *Manual* deals with the Fields of Activity. Twenty-two authorities on community, health, welfare, education, scientific, cultural and international activities have contributed chapters about their respective fields of activity. The chapters discuss how corporate gifts can be used in these fields. The authors consistently approach the question in an objective, practical manner. Throughout the book, it is emphasized that while

one can throw money away easily, it is a difficult job to give money wisely so that it will be used efficiently and effectively. The selection of projects and recipients, the methods of giving, the obtaining of information and advice in the various fields, the establishment of standards and safeguards are among the questions discussed. Many of the chapters set forth quite directly specific, practical suggestions with respect to developing a program of giving. These practical suggestions relate to means of determining the bona fides of potential recipients, the evaluation of the administrative fitness of agencies, the adequacy of financing, short term or long term projects, etc. The authors do not dodge ticklish problems. An example is John D. Millett's treatment of academic freedom. He points out that "some business men feel that they should contribute funds only to institutions of higher education which will openly espouse their side of a current debate about desirable public policy."¹⁰ An objective analysis is made and it is pointed out that: "When censorship begins, it is likely to reach foolish ends. Educational institutions subverted into propaganda offices cease to contribute their own unique part to the maintenance of a free society."¹¹ Throughout the *Manual* are bibliographies and references to organizations where further source material can be obtained.

The *Manual* will have, indirectly, an impact on our society. Unquestionably many corporations will realistically appraise and develop their giving programs in light of the many valuable suggestions contained in the *Manual*. The result will be a wiser and more effective utilization of that portion of the five per cent allowance such corporations deem advisable to use.

As an addendum, it should be pointed out that the House of Representatives established a committee to investigate foundations. The final report of this committee was issued on January 1, 1953. The committee's evaluation of the role and need of foundations reads, in part, as follows:

While the impact of the foundations upon modern society cannot be accurately gaged, it is safe to say that they have rendered great and significant services in many fields. Their contributions in the field of medicine and public health are too well known to require enumeration. . . . Less well understood but of great importance is the part played by foundations in raising the level of education in our colleges and universities. . . . In the field of the natural sciences, their contribution has been equally significant. In these days when an awareness of the needs for national security is uppermost in our minds we cannot fail to acknowledge our debt to the foundations for the assistance and support they have given to all branches of the natural sciences. Of recent years the foundations have given increasing support to the social sciences. This area of endeavor might be designated as the study of man's relationship to man. While the field has often proved controversial it is entirely possible that in a time when man's mastery over the physical sciences threatens him with possible extermination the eventual reward from the pursuit of the social sciences may prove even more important than the accomplishments in the physical sciences. Every new headland of human knowledge which is won opens up new vistas to be explored. As each mountain peak of discovery is scaled, vast new areas are laid open to exploration. Aside from the peering

10. p. 225.

11. p. 226.

needs of national security there are ever-widening and lengthening avenues of knowledge that require research and study of the type and kind best furnished or assisted by foundations. The foundation, once considered a boon to society, now seems to be a vital and essential factor in our progress.¹²

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POLITICAL AND CIVIL RIGHTS IN THE UNITED STATES. By Thomas I. Emerson and David Haber. Buffalo: Dennis & Co., Inc., 1952. Pp. xx, 1209. \$7.50.

Political and Civil Rights in the United States is a unique and invaluable textbook. The present and continued vitality of our democratic way of life is dependent upon our concepts of individual and civil rights and upon the application of these concepts. One can find little disagreement about the necessity of such rights as freedom of speech and religion or the right to fair trial so long as the discussion is limited to a statement of principles. It is the application of these principles to particular situations that gives rise to vast differences of opinion. The difficulties of application are well demonstrated by the decisions of the Supreme Court. In his foreword to this text, Robert M. Hutchins observes:

The number and vigor of opinions concurring in the result, to say nothing of the number and vigor of dissents, suggest that anything may happen when a case involving civil liberties gets before the Supreme Court. Five-to-four decisions, with the majority splitting on the reasons, are the order of the day; and some of the most important cases have been 'decided,' when one justice was absent or disqualified, by a court that was equally divided and that could only affirm the holding of the court below.¹

We must, of course, recognize that our principles of civil liberties take on real meaning as they are applied to individual situations. The development of applied interpretation or meaning becomes basically the responsibility of lawyers—either as counsel for the various parties or as judges. The reason obviously is that under our system the courts ultimately determine the meaning of civil liberties. Even during the preliminary stages when the issues are being drawn lawyers (frequently without knowledge of the real underlying issues) play a significant role as legislators or as executive or administrative officers of various political units. Notwithstanding the necessity of lawyers having a sound knowledge of civil liberties and notwithstanding the critical importance of civil liberties to our political system, most law schools have relegated civil liberties to an insignificant position in their curriculum. The average law student gets a slight acquaintance with civil liberties in a constitutional law course, and perhaps in an administrative law course. He may pick up a smattering of knowledge of some issues in a criminal law or tort class. For the most part, the average law student is not given the opportunity to wrestle with some of our most funda-

12. H.R. REP. No. 2514, 82 Cong., 2d Sess. 4 (1953).

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1. p. iii.