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by Dwight G. McCarty. Prentice-Hall, Inc., New
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Book Reviews

LAW OFFICE MANAGEMENT, Third Edition, by Dwight G. McCarty. Prentice-Hall, Inc., New York, 1955. \$6.95.

I

Mr. McCarty's first book on "Law Office Management" was in 1926. His revised edition was first printed in April 1940. This third edition follows very closely the general pattern of the revised edition. Modernization is noted, however, not only by reference to the mechanical devices which have become available to the lawyer in that interim but also in the recognition that the lawyer must charge considerably more than he did in 1940 and that he cannot "produce" for as many days out of the year as those earlier editions indicated he should.

Even so, McCarty overestimates the productive output of the average lawyer of my acquaintance when he states that there should be six hours of productive work for whom some client may be billed each working day by each lawyer, and a total of 250 working days each particular year. (p. 85)

This book, however, can certainly contribute enough in the way of practical ideas even to the solo practitioner to justify its cost; and there is a wealth of ideas to improve the efficiency even of the most modern law office.

Not in order of importance but certainly all of great importance are the practical suggestions concerning the ever-troublesome problems of the office files, a simple but effective reminder or tickler system, formulas for determining fees, records by both lawyer and employees covering the day's work of each, and methods of billing. Hints, methods, examples, and pros and cons are given by Mr. McCarty on all of these phases of the law office and on many more.

It is important, of course, that the law office be made more efficient and business-like because as Mr. McCarty states:

"The real fact is that the bulk of the lawyer's work is done in his office. For every day that he is in court he spends many days in his office. There is no blare of trumpets or

widespread publicity as he sits at his desk. Nevertheless, this is the backbone of his practice. The lawyer's office is his every day work room." (p. 10)

It would be impossible in a book review to list, much less describe, the many practical suggestions Mr. McCarty makes. The office tickler is certainly one of the most important. It can gain the lawyer a reputation, by the way, of having a phenomenal memory. To be personal I often amaze rather distant relatives with a birthday note at just the right time and all because of our office tickler.

The daily time sheet kept by the lawyer has its many advantages and its many variations, as this book illustrates. It is of special value when the time comes to send a bill because the record compiled from these daily time sheets adds impressive support and inclusiveness to your statement. A similar daily time record by each stenographer or clerk is illustrated by Mr. McCarty. Although in our own firm we do not as yet use this latter record no doubt it too could be most helpful.

The chapter on fees is well worth the reading. Among other good reminders in it is the one that:

"Any lawyer who takes an unpopular case or one that will tend to antagonize present or prospective clients or create opposition among business or other associates is entitled to be well paid for his courage." (p. 94)

The pros and cons of the minimum fee schedules are discussed. And a good word is said by Mr. McCarty for the contingent fee. The penniless client resents being made the object of charity and unless the contingent fee is available the legal profession might only be for the benefit of the rich man, writes Mr. McCarty, who also has this to say:

"There is considerable sophistry in the assumptions of those who condemn contingent fees. Every lawyer strives to win his cases. That is human nature. The 'temptation' is no more strong in a case of a contingent than in a general run of cases in which the lawyer is fighting for a victory." (p. 100)

Although a great deal is said by Mr. McCarty about the mechanical aids available to the modern law office he does not neglect the personal element involving "the office employee."

The mid-morning and mid-afternoon coffee break has an honored place in that chapter. (c. 10)

In discussing the reception of callers Mr. McCarty gives good advice when he states that uniform courtesy should be accorded to all callers irrespective of whether or not they are clients. And he reminds the readers that, though a busy lawyer might be tempted to be brusque with salesmen, salesmen are talkers and will either build good or bad will for those on whom they call. And he stresses how unfair it is for the caller not to be given some idea of how long he must wait before being seen; and how important it is that there be no needless interruptions once the caller has reached the lawyer's private office.

Throughout his book Mr. McCarty stresses the irreplaceable value of the lawyer's time. Among the many practical suggestions he offers permitting the lawyer to conserve his time for more important functions deal with a great variety of office forms — correspondence, the multitude of legal instruments a lawyer will from time to time draw, and the more usual type of suits he will file or defend.

The value of letters which leave one's office is often overlooked. Mr. McCarty reminds us that our letters are our proxy and that no correspondence should ever become mere routine.

Certain of his more lengthy chapters deal with bookkeeping and accounting. He writes convincingly of the need for a modern bookkeeping and accounting system, yet states that even in a one-man office the lawyer cannot afford to do these details himself. I might add that few lawyers of my acquaintance would be capable of doing it. It is impressive, though, to learn from this volume that the lawyer does have "invested capital" consisting of the following:

- (1) Cash invested in business.
- (2) Law library.
- (3) Furniture, fixtures and equipment.
- (4) Cost of education and training.
- (5) Personal talents.

And for those who understand there is a discussion of such prosaic items as depreciation of all save the final two categories.

I must confess, however, to a feeling of being somewhat out of breath after having read the book. It would make the prac-

tice of law far more efficient and by the clock than is my own custom. Mr. McCarty probably realizes that only a few of these efficiency methods will brush off on his reader and that the practice will still remain a profession and not a highly mechanized trade.

It seems to me that Mr. McCarty has neglected the wisdom and application of the adage by President Theodore Roosevelt that every man owes a little of his time and talent to the betterment of his own profession. There is almost a dearth of comments concerning the time and effort the lawyer should devote to the activities of the organized bar at all its levels and to the public good generally. In fact, I finished the book with somewhat the feeling that Mr. McCarty considers time for which no client may be billed is wholly lost time unless by chance it is spent in adroit salesmanship to attract future productive business.

II

Among the few shortcomings in the self-serving portions of Mr. McCarty's book is a complete absence of any suggestion on the most personal phases of a legal partnership: protracted illnesses and retirement or death of a partner. Back in September 1955 I contacted some thirty firms scattered over the country — mostly firms having from five to ten partners — inquiring of their experience, policy, and formula dealing with these subjects. Although only four or five appeared to have a definite fixed plan, most of the others had given some thought to the problems and had either already faced such an experience or else had a general idea of what would be their policy.

With respect to a retiring or deceased partner's interest in capital assets. One had these owned by a corporation with shares at only a portion of their true value and each partner sought to obligate himself and his widow to sell at that value in event of retirement or death. Four said the survivors would "inherit" all capital assets except personal items. The others said the survivors would pay "book" value. One or two spoke of "appraised" value being paid.

Death of a partner. Six of the firms I contacted pay or would probably pay to the widow the deceased partner's percentage for at least a year beyond death, but two of these would spread

that sum out over a longer period. One said "six months plus consideration to be given as to fees in prolonged matters" was their policy. Another said they pay the full percentage on all unfinished business "which generally continues over quite a number of years." Another said their firm would pay the full share on all unfinished business without any charge against it for operating expenses, while another would deduct forty per cent of such fees on unfinished work for operating expenses. One which had no fixed plan said that a widow of a junior partner had been paid his percentage for seven months after the junior himself had been paid his full percentage for a period of six months of illness prior to his death.

For anything but protracted sickness most of those thirty firms I wrote would continue paying the full percentage to the ill partner. Most would "negotiate" in event of protracted illness, although one had in fact paid the full percentage to two ill partners for several years prior to their death but then nothing more to their widows.

Retirement. Most of the thirty firms of whom I inquired would "negotiate" this. One has a fixed plan providing for three months plus "consideration of fees in prolonged matters," and another has a fixed plan providing for fifty per cent for six months unless the retiring partner continues practice in the area. One I heard about indirectly — a most unusual arrangement and involving a firm of only three partners — allowed the retiring partner his full percentage on all finished but unbilled work, seventy-five per cent of his full percentage on all unfinished work, and ten per cent on all future fees from his individual clients which remained with the firm.

My own conclusions are that a written plan is preferable; that a retiring partner or a deceased spouse should be obligated to sell his interest in all capital assets including files, either at "book value" or at a value made each year and to continue as the value for a year; that in event of death the widow should receive the equivalent of from one to two years of the deceased partner's percentage (depending upon the factors involved in that particular firm, such as any marked difference in seniority or in drawings, the likelihood of the deceased's individual clients remaining with the survivors, continued use for a period of the deceased's name in the firm, etc.); that the amount to be paid

should perhaps be spread out over from two to four years so as to lighten the load on the survivors and minimize the income tax to the widow. The agreement should of course be drawn so as to be sure these latter payments to the widow are income to her and deductible by the survivors, with the payment for capital assets treated as capital gain or loss by her and recoverable by way of depreciation by the survivors.

As to illness, I would think an agreed plan for full payment for a period or periods not totalling more than a certain period (say a year) in any one period (of say five years), with provision for negotiation in event of more protracted illness, would be advisable. It also might be a good idea for the firm to carry sickness and disability insurance on all partners with maximum benefits (such as the Louisiana State Bar Association group plan and perhaps a separate one too) with the benefits to be credited against whatever may be the firm's obligation to sick or disabled partners.

Finally, as to either full or partial retirement, I frankly do not believe a formula can be devised and that this must be the basis of negotiations — with perhaps an arbitration provision to take care of an absolute deadlock.

Mr. McCarty may have considered including chapters on these internal, personal problems and then concluded that lawyers shy away from such somber thoughts. That area is a generally neglected one in all books on law office management which I have seen. Just as we advise our clients they must provide for these certain events, I wish Mr. McCarty had advised us.

*Ben R. Miller**

SUCCESSFUL HANDLING OF CASUALTY CLAIMS, by Patrick Magarick. Prentice-Hall, Inc., New York, 1955. Pp. xiv, 495. \$6.50.

The insurance industry should be grateful to Mr. Magarick for his contribution, since it is apparent he has devoted substantially of his time and talent to writing a book on a subject that is an integral and most important phase of the insurance business. As the title indicates it deals with the handling and adjustment of casualty claims from the company's point of view.

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