The political battle recently waged over the Government Reorganization Bill centered upon the Comptroller General's office and functions. The controversy revealed how little was really known about this "most influential, if least understood, administrative position in the national government." But the gap has now been closed by this scholarly study of not only the functioning of the office under John R. McCarl and the historical background and governmental ideas which produced this feature, but also the justification for the reorganization proposals with respect to financial administration. The book should be studied by every student of government and problems of administrative law.

Whereas in the early years of the republic the narrow range of Federal activities and the difficulties of communication necessarily required that officials be delegated a broad discretion, the progress in communication and the growth and complexity of governmental activities have forced a centralized control. The "principle of ratification" of official transactions has given place to the "principle of delegation by statutory direction." Administrative flexibility was still possible, however, until the Budget and Accounting Act of 1921 set up the Comptroller General's office with a veto upon administrative discretion. The aim of Congress in creating this office was, briefly: To obtain information through independent reports by an "agent of Congress" as an aid to future budgets and appropriations.

In short, the goal was primarily an accounting one—an independent and continuous audit promptly available. It was never attained because of "the Comptroller General's preference for using his administrative controls, and the want of proper machinery in Congress for taking full advantage of the services an auditor should supply."

The failure is not altogether a personal one, for as the author points out:

Where audit and control are mixed, emphasis will be placed on one or the other. If the controlling powers are large they will prove the more attractive and the reporting function will either atrophy or lose its independence and become merely self-justification.¹

Under Comptroller General McCarl the accounting function did atrophy, and even pre-audit became a fiction, while he carried his administrative control to such lengths that no disbursing officer was safe. The disbursing officer was originally an instrument of pre-audit, but gradually he became a paymaster. The trouble under the existing system is that although he can and does make payments, he and his bondsmen are then held responsible until the Comptroller General can audit the transaction and clear him of responsibility. This always involves delay and "red tape," and the result may be that the disbursing agent's payments, even though made in perfect good faith, may be disallowed by the Comptroller General. He is cleared of taint then only by Congressional action from time to time. There have been cases where the disbursing officer could not get clearance on his bonds for three or four years after leaving the government service. So intolerable is the situation that disbursing agents have made it a point to hold no property in their own names, and to assume no responsibility that can be shed. Nothing is more calculated to undermine the efficiency and the adminis-

¹ P. 267.
trative integrity of junior administrative officers than this unpredictable personal liability they must assume in transacting governmental business.

The core of the problem is to attain a stable balance between two vital principles: the principle that the final word in authorization of the disposition of public moneys shall be spoken by Congress and, therefore, Congress has a legitimate interest in the enforcement of its commands; the principle that once authority has been delegated and working programs approved, administrators must be allowed a reasonable degree of discretion in execution.

The solution, the author finds, is in the post-audit recommended in the Reorganization Bill. The essential features of this Bill as regards governmental accounting are: centralized uniform accounting; continuous post-audit of expenditures; continuous reporting thereof by the Auditor General to standing financial control committees of Congress.

This program would eliminate the illogical "pre-audit" which clings to legislative control far beyond legislative precincts, and would provide the essential flexibility for expert administration, yet subject executive activity to constant check-up by continuous post-audit reporting to Congress.

The ability to carry out a workable and efficient accounting control of governmental expenditures has been demonstrated by the experts of the General Accounting Office under carte blanche from the President to provide adequate accounting for the WPA expenditures. The only requirement now is to carry such accounting activity to every department of government, to substitute continuous post-audit for pre-audit procedures, and to provide for a continuous review by a Congressional committee on expenditure. The last is the most essential part of the program—the best accounting procedure breaks down if there is no provision for review and current use. No accounting procedure will afford a check upon executive exuberance if the legislature ignores the data provided for the purpose of wise planning and exact control.

GEORGE P. ELLIS*


Justice Story once called James Kent "another Hardwick," and Lord John Campbell considered him the equal of any chancellor whose life he had written. Generations of law students pondered his Commentaries and called him "the American Blackstone." Yet the man himself remained something of a shadowy figure because he lacked an adequate and readable biography. Professor Horton has now filled the gap with unusual skill. He writes well. He has done an excellent research job. He has written broadly enough to set the man in his age and locality.

Kent was born of good Connecticut stock and graduated from Yale during the American Revolution. He read law in the office of Egbert Benson, Attorney General of New York, and was admitted to the bar in 1785. But he did not cease his study. First he cultivated "the humanities until the poets and historians of Rome, together with Homer, Hesiod, Demosthenes, and Xenophon, all in their own proper tongues, became sources of genuine enjoyment." Then he turned to Sir Edward Coke, to Sir Thomas Littleton, and to Peere Williams to broaden his knowledge of law and equity.

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