

# Washington University Law Review

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Volume 23 | Issue 4

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January 1938

## Review of “Business and Government,” By Rohlfing, Carter, West, and Hervey

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### Recommended Citation

Walter F. Gast, *Review of “Business and Government,” By Rohlfing, Carter, West, and Hervey*, 23 WASH. U. L. Q. 583 (1938).

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## BOOK REVIEWS

**BUSINESS AND GOVERNMENT.** By Rohlfing, Carter, West, and Hervey. Third Edition. Chicago: The Foundation Press, 1938. Pp. xviii, 780.

Within any particular time the relationships between government and business raise four significant questions of broad practical value. Exactly what are these relationships? How did they develop? Are they what they should be? What trend do they exhibit? The authors of *Business and Government* address themselves principally to the first question, but give some attention to historical aspects of the second, and parenthetically prompt some answers to the fourth. On the third question the authors adroitly avoid all personal comment. Their stated purpose is "to trace the most significant points of contact between business and government and to stress the necessity for those who follow business as a profession to understand thoroughly the everyday relationships with public authority."

Contemporary relationships between business and government, considered as a whole, are the resultant of four concurrent forces—the laws affecting business; the attitudes of the makers, interpreters, and administrators of these laws toward business; the attitude of business toward the laws and the government; and the influence of special groups with particular interests to promote. These forces the authors of *Business and Government* describe with marked clarity.

Perhaps our present politico-economic dilemma is chiefly the result of confusion about the respective purposes of business and of government. Much has been said about the latter but perhaps too little about the former. Certainly none of the parties to the disconcerting turmoil over the relationships between business and government has brought into the open the serious question, "What is business really for?" It may be insisted that until this question is thoroughly aired, and until some fairly plain answer is formed and accepted in the manner of a democracy, we shall continue properly to regard with vague apprehension the fate of democratic "Geist" in other lands. The reader of this book cannot escape the impression that our continual, sometimes deliberate, often too hasty, and always opposed experimentation with laws affecting business reveals that we have no clear policy governing the relationships between business and government. Nor can he fail to be astounded by the vast extension of governmental interference with business and by the degree to which the country has become dependent upon legislative edict. *Business and Government*, now twice revised since first published in 1934, presents the whole modern development of business relationships with public authority in clear relief, stripped of confusing and monotonous detail and admirably free of speculative ventures into social, economic, and legal interpretations.

The first five chapters provide, or at least revive, a clear constitutional perspective of the modern rapid movement toward close social control of business. These chapters rehearse the emergence of the Constitution and of the federal system with its division of governmental powers between individual states and the United States; the legal basis for expanding govern-

mental control of business; the opposition of business to such control; the flexibility of the Constitution as a fundamental instrument for the protection of basic, though perhaps expanding rights, even under the stress of social and economic change; and finally the powerful influence of organized pressure groups upon government and upon public opinion. If the reader feels that the concomitance of significant economic aspects of social evolution receives a somewhat less than adequate treatment in this section, his patience will be rewarded in later chapters.

The two following chapters on the Sherman Act, the Clayton Act, and the Federal Trade Commission Act provide an appropriate prologue for the exciting drama of ceaseless conflict between heroic *laissez faire* and villainous governmental interference. In chapters eight to fourteen, the more recent regulations of security issues, security exchanges, public utilities, public utility holding companies, railways, and highway and air transport companies are treated with commendable attention to underlying economic pressures, constitutional and legal involvements, and the objectives, provisions, and administrative enforcement agencies of the laws. Somewhat displaced from natural order, chapter eleven in this section discusses the growth of governmental competition with private enterprise and gives the reader an excellent review of the constitutional complications and the vigorous business objections surrounding the efforts of the Tennessee Valley Authority. Then follows a concise but lucid exposition of the major provisions of the Federal Bankruptcy Law of 1898 and its subsequent amendments. How and with what effect Congress has employed its constitutional power to tax, particularly in many of the newer forms of taxation; how state and local governments assert their powers in this field; how taxation may lead to regulation; and how some recent tax enactments of Congress violated the Tenth Amendment are outlined in chapters fifteen to seventeen. An examination of the tax problem logically leads to a chapter devoted to the effects of public expenditures upon taxes, upon business prosperity, and upon general welfare. Two chapters next treat the great federal power over money and banking, especially as exhibited in the Federal Reserve System, the F. D. I. C., the R. F. C., the Banking Act of 1935, and in recent legislation affecting farm and home owners' credit; point to the recent tendency toward managed credit; and review the forms and the economic, political, and legal aspects of price control.

The remaining nine chapters present an illuminating description of the aggressive efforts of government to palliate and extenuate the distress of certain large groups of sufferers in the swift turbulence of economic and social change, namely, the unemployed, the farmers, the laborers, and the socially insecure. The various manifestations of state solicitude for such special groups provide an almost overwhelming display of the amazing extent to which government has been induced to foster improvement in the conditions of life. But the authors develop this theme with an orderly, clear treatment of the various laws and with an impartial interspersion of expressions of criticism, caution, and commendation, drawn from legal, economic, and business quarters.

For business men and practicing lawyers, for teachers and students of law, political science, economics, and business this book will provide a genuinely serviceable and clearly drawn panoramic view of the recent extension of relationships between government and business. Good bibliographies, excellent problem questions at the end of each chapter, and references to over 300 court cases add substantially to the value of *Government and Business* for text and reference use.

WALTER F. GAST.†

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STATE HOUSE VERSUS PENT HOUSE: LEGAL PROBLEMS OF THE RHODE ISLAND RACE-TRACK ROW. By Zechariah Chafee, Jr. Providence: The Bookshop, 1937. Pp. xxii, 165.

This discussion of the politico-legal implications involved in last autumn's quarrel between the Governor of Rhode Island and the manager of the Narragansett Race Track is not in strictness a law book, or at least a lawyer's book, at all; the internal evidence afforded by such items as note 9 on page 93, note 20 on page 104, and elsewhere makes manifest Professor Chafee's concern with a larger and non-professional audience. It may in part be viewed as a *res gestae* utterance of humiliated patriotism worthy the attention of those who believe that state pride has completely vanished from the citizenry; but it is more than that. In essence what the author has given us is a twentieth century descendant of the eighteenth century political pamphlet from which there has been subtracted the partisanship characteristic of the earlier type of work and to which there has been added a thorough documentation, journalistic and legalistic, of extracts useful in getting the whole *mise en scene* of the dispute.

It would be a mistake, as the discussion points out, to dismiss the problems as merely local. The Rhode Island of these pages is as full of lessons of general application as was Long's Louisiana and as is Aberhart's Alberta. Observers of government from de Tocqueville to Holmes have pointed out the benefits to be gained in a federal state by the opportunity afforded each of the member states to profit from the experiences of the other members without ever having to suffer them directly. The woes of Little Rhode Island should serve as a warning to all her sister states which are willing to learn from them.

The strictly legal discussion involves several phases of the involved issues. The stress is laid upon the problem of the functioning of administrative agencies, as illustrated by the behavior of the Horse Racing Division in cancelling the license of the Narragansett Racing Association and ordering the discharge of Mr. O'Hara as manager. In this matter the reviewer finds himself not in entire agreement with the rather sharp dichotomy between administrative and judicial bodies, as fair and competent tribunals, which the author suggests. It is to be noted that both Governor Quinn and Chief Kiernan of the Horse Racing Division had the formal legal education which constitutes the special qualification for the judiciary. True, they had

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