

Municipal Bonds: A Century of Experience (Book Review)

William M. Hudson

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decision is not even mentioned in a note. Since the opinion in *Old Colony Trust Co. v. Stumpel*,² was delivered by a lower court, though affirmance in a court of last resort followed, it is perhaps to be expected that Professor Aigler would not see fit to include it. However, its excellence as a functional decision would, to your reviewer, have outweighed the drawback. Further, *Brown v. Perera*,³ holding an instrument payable in foreign money to be negotiable, though not a decision of a court of last resort, and though not even officially reported, would commend itself to a functionalist, at least for the purpose of a note. In discussing foreign money as a medium of exchange (though it is not legal tender) on the basis that it circulates rather than is consumed, and is, therefore, less of a "commodity" than gold itself, this decision exemplifies well the economic function of law.

On the other hand, for his inclusion of *President & Directors of Manhattan Co. v. Morgan et al.*,⁴ Professor Aigler is to be complimented. But in failing to do it justice in his notes, the editor indicates a complete lack of interest in its functional significance. Indeed, the omission from the notes of functional dealing with the cases chosen, rather more than imperfections in the choosing, is the chief disappointment found by your reviewer in Professor Aigler's compilation. The deficiencies of his cases could well have been met through the medium of notes to fill in the gaps between a mere rule and the function of law.

Professor Aigler says that he "has been far from satisfied with the effort to cover banking by sprinkling banking cases among those dealing with negotiable paper." If the sprinkling must be a willy-nilly sort of affair, Professor Aigler is to be commended for refraining from it. But if there had been interspersing of cases in one field with cases in the other, for the purpose of developing once and for all a functional approach to both these divisions, something would have been accomplished to supply a long felt need. It is no answer to this criticism that your reviewer himself has not been able to develop his own work in the field of negotiable paper as to enable him to list himself among the functionalists, except incompletely. Because most teachers erroneously believe that in bills and notes a functional approach is automatic and even unavoidable, the difficulties attendant upon rendering instruction in that subject truly functional is, perhaps, harder than the difficulties involved in making such an approach elsewhere in our science. One can understand why Professor Aigler has not attempted it. But one could wish indeed that he had done so.

DAVID S. EDGAR, JR.*

MUNICIPAL BONDS: A CENTURY OF EXPERIENCE. By Albert Miller Hillhouse, J.D. New York: Prentice-Hall, Inc., 1936, pp. xiv, 579.

Prior to 1930 little was known about municipal debt defaults. This book presents a vast amount of factual material and historical data on this question.

¹ 249 N. Y. 322, 164 N. E. 113 (1928).

² 126 Misc. 375, 213 N. Y. Supp. 536, *aff'd*, 219 App. Div. 771, 220 N. Y. Supp. 893, *aff'd*, 247 N. Y. 538, 161 N. E. 173 (1926).

³ 176 N. Y. Supp. 215 (1918).

⁴ 242 N. Y. 38, 150 N. E. 594 (1926).

* Professor of Law, St. John's University School of Law.

It is a pioneer work in the history of defaulted municipal bonds in the United States and Canada. The sub-title might well be "A Study in Municipal Credit Pathology" for the author states that he has deliberately ignored success in municipal debt administration.

In making this study the author has placed the emphasis upon the historical and administrative aspects of the problems of municipal debts. The work is thoroughly documented. It was impossible for the reviewer to check even a substantial number of the hundreds of references to source materials, but those he did check were accurate as to facts and the conclusion drawn entirely justified. On the whole the author has exhibited ability of the highest order in gathering, analyzing, and interpreting the widely scattered source material which he has examined.

The book is made up of fifteen chapters, eleven appendices, a selected bibliography of fourteen pages, and an excellent index.

Chapter I is devoted to The Present Municipal Debt Problem. Until the present depression it was generally believed that municipal defaults belonged irrevocably to the past. Judged by totals the defaults of the earlier depressions have been greatly outdistanced by those of the present, but relatively speaking the defaults of the eighteen-seventies were about twice as bad as those of today. While defaults have occurred in every type of bond, defaults by reclamation, irrigation, and drainage districts lead all other units of government; counties follow next, then cities and villages, and finally school districts.

Chapter II gives a Summary of Past History. The striking fact is brought out that from 1902 to 1932 there was a practical doubling in the total municipal debt every decade reaching the figure of \$15,216,000,000 in the latter year.

Chapters III to VII give a carefully documented history of all the types of bonds in default from the Carpetbagger Bonds of the Civil War to the Railroad Aid Bonds of the present. After reading these chapters the reviewer is convinced that practically all the wrong ways of administering municipal debts have been exhausted. Certainly great ingenuity will be required to discover new wrong ways.

Chapter VIII deals with Canadian Experience with Defaults. The recent Canadian experience seems to be about twice as bad as that of the United States, although the author thinks that conditions in Canada are now improving. The chief causes of defaults in Canada are summarized on page 227. It would be a good thing if every citizen of the United States and Canada could read and thoroughly grasp the contents of this one page. With a single exception, namely, "Burden of relief charges during the last three years through unemployment," all of the causes mentioned could be controlled by an efficient financial administration supported by an enlightened public opinion convinced of the folly of the practices enumerated.

The remaining chapters deal with Causes and Conditions (IX), Creditors Rights (X), State Remedial Measures (XI), Debt Adjustment (XII), Consequences of Default (XIII), Preventing Municipal Defaults (XIV), and Conclusion (XV). In the opinion of the reviewer Chapters IX, XIV and XV are the most significant. The Conclusion (XV) is a masterpiece of condensation and summarizes the main conclusions and contributions of the book.

Looking at the situation as a whole the author concludes that while defaults have been numerous they have been negligible when compared with the total number of municipalities throughout the United States. Furthermore, while defaults have not been restricted to any one section of the United States, and have occurred in every type of bond, losses to bondholders upon defaulted bonds have been relatively negligible when compared with the total amount of bonds outstanding at any one time or with the total bonds in default within any given period. "Defaults have been neither so numerous nor so acute as to warrant a lack of confidence in the soundness of municipal credit, or in the character of local administration." In short, municipal bonds are still a good investment provided the investor exercises a reasonable amount of care and thought in his buying.

The Foreword to this volume states that one purpose in writing it is to lay the groundwork for further studies in municipal debt administration. This purpose has been amply accomplished. The author is to be congratulated on making such an excellent contribution to the developing science of municipal finance administration and the Municipal Finance Officers' Association of the United States and Canada can take pride in having sponsored the book.

WILLIAM M. HUDSON.*

THE MIND OF THE JUROR AS JUDGE OF THE FACTS. By Albert S. Osborn. Albany: The Boyd Printing Company, 1937, pp. xiii, 239.

There seems to be abroad in this land of ours a serious confusion of concepts which threatens the very supports of our democracy. Too many there are who have concluded that the scientific approach in sociology and law is synonymous with science in its broadest implication. As a consequence, thousands of facts are laboriously assembled and classified, arbitrarily or otherwise; and eventually and perhaps in many cases insidiously, a new order of human conduct is manufactured. What began as a voyage of discovery ends by calling the old land a new name.

Things being as they are, it is not surprising that the highly human institution, the jury, has been scientifically "approached". Researchers report, for instance, that in the County of *X* a specified number of juries have reached a certain result on a certain problem while in the County of *Y* they have done the opposite under similar circumstances. So far so good, at least mathematically. But then follows the absurd deduction that since juries do not manufacture the same pattern day in and day out they are useless machines and should be abolished. Although no one has seriously urged it to date, it is assumed that the same conclusion might be reached on judges who have been known to disagree on the law as well as the facts. Juries being human do act according to their species in their deliberations. Indeed, intuitively, if not

* Professor of Economics and Sociology, Long Island University. Member of the New York Bar.