

belligerent the benefits of due process, and requires that the civilian courts strictly confine the jurisdiction of the military to what will withstand critical scrutiny.

Mr. Reel is notably successful in combining the dramatic aspects of his story with the technicalities of the law, which enhances the value of the book for educating the public to that little known area of law in which civilian and military jurisdictions impinge on each other. Moreover, this account of Yamashita's case is a new reminder of the very human and violently emotional situations which have given rise to the safeguards which normally hedge in our criminal procedure. The reader is persuaded that Yamashita paid for crimes for which he was not personally responsible and which, if circumstances had permitted, he might have tried to suppress. The book does not help to explain what seems to be a consistent pattern of gratuitous cruelty indulged in by Japanese forces against civilians and prisoners of war. Neither the prosecution nor the defense in Yamashita's case throws light on this interesting question, which, perhaps, can be answered only through a close acquaintance with Japanese culture and history. The answer to this problem is not likely to be one of a nature which permits the fixing of responsibility for Japanese war crimes in accordance with the recognized categories of the law.

The reviewer is greatly impressed with the conscientious, skillful, and energetic defense which Yamashita's counsel afforded to a fallen foe. These lawyers, who were chosen quite at random, overcame tremendous obstacles at almost every step, eventually carrying their case to the Supreme Court and then on to the White House. As a layman, the reviewer can say in good grace that this remarkable record is not without significance as an index to the health of the American legal profession.

EDWARD H. BUEHRIG†

PUBLIC ORGANIZATION OF ELECTRIC POWER, by John Bauer and Peter Costello. New York: Harper & Brothers. Pp. 263.

Public Organization of Electric Power, by John Bauer and his associate, Peter Costello, presents the most effective analysis of the case for public ownership and operation of the electric power industry that has appeared. Dr. Bauer has devoted most of his life to the cause of effective regulation and he concludes with reluctance that regulation can never accomplish the national organization of the industry, the reduction in costs, and the universal availability of this basic and essential service which the public requires. "I should prefer continuance of private ownership under public control if this

† Professor of Government, Indiana University.

could be made really effective. In principle, it could be; in reality, it won't be." The public organization of the industry is, therefore, advanced as the only means to correct the distortions of the private power systems, the incompetences of regulation, and the conflicts between public and private interests inherent in the continuance of private ownership under public regulation.

The argument is presented in terms of an appraisal of the organization and conduct of the industry, an analysis of costs and rates, and a consideration of the defects of regulation. The alternative proposed is a rationalized series of federal, state and local systems. The federal system or systems would generate the base or main load demands at large, strategically located hydroelectric and steam stations, and deliver power over high voltage transmission systems. The states would provide generating capacity to supplement the main loads delivered by the federal system, operate secondary transmission lines, and perhaps perform distribution functions where no local operator exists. The operation of the local distribution facilities would be in the hands of municipalities or local power districts.

A consideration of the organization and conduct of the industry begins with the basic difficulty that managements are ineradicably oriented toward private corporate advantage and that they cannot be induced to give primacy to the public interest. The monopoly character of the industry is credited with destroying competitive pressures for technological progress, reductions in cost, and a full development of the potential market. While continuing to operate obsolete plants, private electric systems have been able to absorb as profits economies arising from internal economies effected by management, from technical progress outside the utility systems (e.g., from improvements in equipment), and from the expansion in volume resulting from growth in public demand for service. The power industry is found to fall substantially short of satisfying standards of engineering efficiency; with notable exceptions, there is no regional pooling of generating facilities to make maximum use of large, modern plants; interconnections provide no over-all planned grid of transmission facilities; and the market is divided into many un-economic service areas.

Organizational defects account for only a part of the allegedly high costs that restrict the market for electric service. An analysis of the electric plant accounts for Class A and B companies serving cities of 50,000 revealed average gross book costs of \$456 per customer; this book cost, measured against an assumed prudent investment of \$250 per customer based on the Federal Power Commission's original cost determinations for 43 companies as of 1945, with depreciation assumed to be 30 per cent, is judged to be excessive by 80 per cent. The excessive book cost figures are matched by a "general condition of prevalent overcapitalization"—the result of "past piece-

meal construction," of the "continuance of old, obsolete and even discarded units in the property accounts," and of "write-ups during successive stages of consolidations." This is cited "as a fixed barrier against future rate reductions in accordance with low costs basically available." An analysis of the steam generating capacity of large companies (each with a gross electric plant investment of \$5,000,000 or over) in a leading industrial state of the Northeast revealed less than 20 per cent of the units having an efficiency in 1942 suitable for main-load operation; average coal consumption was 1.33 pounds per kilowatt hour, whereas only plants requiring 0.8 pound were considered economical for regular operation (the realizable standard of modern large plant efficiency then being 0.7 pound), units requiring 0.9 pound to 1.0 pound being economical for off-peak loads, units using 1.0 to 1.2 pounds being suitable only for stand-by purposes, with coal at \$5 per ton.

Another source of high costs is attributed to elaborate and extravagant management structures. In 1942, 123 large-city companies incurred an average of \$10.58 per customer for three overheads—customer accounting and collecting, sales promotion, and administrative and general expenses; a reasonable figure was judged to be \$6.50.

A third major source of dissatisfaction with the private power industry centers in the incompetence of public regulation. The Federal Power Commission is credited with having done more than any other public body in bringing about rate reductions; its reclassification of plant accounts to show the original cost of electric properties has given state commissions the means of regulating rates more effectively; also it has "developed simplified standards and procedures, adopted definitely the prudent investment (original cost less depreciation) as rate base, and obtained confirmation from the Supreme Court in the . . . Hope Natural Gas Company case"; its publication of comparative electric bills has directed public attention to high-rate communities. The Securities and Exchange Commission is credited with reasonable success in the dissolution of holding company systems, pressing for sounder capitalizations and proper reserves, and eliminating intrasystem profits; however, it has lacked authority to accomplish an affirmative reconstitution of properties to assure maximum efficiency in organization and operation, and in approving divestments of stocks at prices reflecting existing earning power, the "prior overcapitalization of the operating companies" has been "frozen in" to their capital structures. But for the rest, regulation "has not furnished protection to consumers as intended, has retarded efficiency as available through advancing technology, and has not even prevented losses to investors."

In presenting the affirmative opportunities for the public organization of power, the authors continue their practice of making their assumptions ex-

explicit and of introducing figures to support their arguments. The outstanding advantage of public organization is found in ending the conflict between public-interested objectives and private interests. An equally fundamental long-term gain would be the more efficient organization and integration of the functions of generation, transmission and distribution. Other advantages in substituting public for private operation includes escaping from the prevalent over-capitalization of electric properties, obtaining the savings from low interest rates, eliminating the excessive overhead expenses of private companies, saving on the payments of federal taxes, eliminating the discriminations inherent in prevailing rate schedules, and realizing the public advantages of more extensive use of power resulting from low, objective rates.

The authors have marshalled their facts, developed dollar-and-cents figures, and placed on dissenters the burden of demonstrating that the electric power industry will serve the public interest more effectively under private than public organization. The case that has been made for public organization cannot be met by an affirmation of faith in private enterprise or of distrust in public management. No evidence is at hand to demonstrate that private managements of public utilities have, on the average, any higher sense of public responsibility and public trust than have the managements of other corporations that are not subject to regulation. Also a half century and more of experience has not only failed to develop satisfactory techniques for the regulation of utility enterprises, it has not even produced a consistent pattern of independent and competent performance of their public responsibilities by the regulatory authorities. Indeed, when disinterested students of regulatory processes consider the records of public service commissions and their staffs, there is ready agreement on the instances of competent, progressive and courageous regulation and the honor role is distressingly brief.

In the past the campaign against public ownership, where reliance has not been upon name-calling, has rested on general assertions of the superior efficiency of private management and the alleged incompetence of public management. The argument no longer carries conviction; the conspicuous success of many public systems is well known, their comparative costs and rates have been tested by many disinterested authorities. Nor do public service commissions continue to function as a protective screen against criticism when consumers see that regulated companies' rates are no lower than the rates of unregulated utilities and when experience demonstrates that public competition is more successful than regulation in inducing private companies to lower rates, expand service, and still earn a fair return. However, if it be acknowledged that public competition has had a salutary effect on private utilities, it must also be recognized that private companies' political pressures on public undertakings have doubtless favored alert, progressive and

efficient performance by public managements. If the situation were reversed and the industry became as predominantly public as it is now private, public managements might tend to become less competent; in the absence of competitive yardsticks, it is not easy to get beyond political criticisms in appraising the performance of government operations. The authors acknowledge that public regulation of private utilities could theoretically obtain for consumers many of the advantages which they seek through public organization of electric power, but they have little confidence, in the present temper of the industry and of regulatory agencies, that there will be any real renaissance in regulation—a state of mind which objective observers of regulation will understand and in a measure share. Yet if public ownership becomes a more potent factor in electric power, the private sector of the industry has this defense: If the private companies had the wisdom to use their influence to assure truly competent, effective and independent (independent of the regulated utility companies) regulation, there could be a restoration of public confidence in regulatory agencies and regulated enterprises. However, it is unlikely that this measure of wisdom will be forthcoming until the field is lost.

Many of the economic advantages of public organization can be obtained short of complete public ownership and operation. A national grid system would permit a more rational organization of the industry, concentrating production in modern efficient generating plants, developing cost standards for the separate functions of generation, transmission and distribution, permitting specific performances to determine the choice between public and private operation in the particular instance and guaranteeing efficiency in each branch of the industry. Substantially this recommendation was advanced in the *Twentieth Century Fund* report on the electric power industry, with the concurrence of the utility executives on the advisory committee, as a means of reorganizing the industry to promote efficiency in service and effectiveness in regulation.

IRSTON R. BARNES†

REVENUE ACT OF 1948. Legislative History Series. Edited by Paul A. Wolkon and Marcus Manoff. Albany, N. Y.: Matthew Bender and Company. Pp. xxiii, 667.

The popular phrases around which the supporters of the Revenue Act of 1948 rallied to pass the bill through Congress and then to pass the bill over the veto of the President of the United States were “geographical tax equalization” and “tax reduction.” For many years there had been an unequal federal tax burden upon married residents of the United States, depending

† Bureau of Industrial Economics, Federal Trade Commission.