Chicago-Kent Law Review

Volume 6 | Issue 8

June 1928

Book Reviews

Chicago-Kent Law Review

Follow this and additional works at: https://scholarship.kentlaw.iit.edu/cklawreview

Part of the Law Commons

Recommended Citation
Available at: https://scholarship.kentlaw.iit.edu/cklawreview/vol6/iss8/5

This Book Review is brought to you for free and open access by Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in Chicago-Kent Law Review by an authorized editor of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact dginsberg@kentlaw.iit.edu.

This is a timely contribution to the literature of the defects in the administration of our criminal law. In meetings of Bar Associations, Bankers Conventions and Chambers of Commerce the declaration is frequently made that our criminal laws are no longer efficient and that society has lost its check and control over its outlaw members. The American Bar Association appointed a committee on law enforcement which made a general investigation of crime conditions running over a period of several years and at the same time made a comparative study of judicial procedure in the United States and in certain European countries whose systems could be fairly contrasted. Judge Kavanagh was an early and continuing member of this committee and became a pioneer in the work of criminal law reform as well as an untiring speaker and writer on these subjects. This book represents in concrete form the conclusions which Judge Kavanagh has arrived at with respect to this all-important subject.

To begin with, this book has no concern with sociology, the reformation of criminals, administration of prisons or excuses for criminal conduct. Probably there has been enough written on these subjects by others. Its sole purpose is to enlighten the general public as to actual conditions of crime in this country, the needs of the situation, the responsibility for its continuance and the remedy for its evils. If the people, knowing the situation and realizing their obligation, fail to do what is necessary, the inevitable result will follow as has been ably pointed out by the author.

Considering the work therefore as a study of the present administration of criminal justice, emphasis is laid upon current statistics as to the prevalence of crime at the present day. It is a short step from this to the consideration of the money cost to the community through the existence of such a crime situation as confronts us now. Judge Kavanagh takes up next special types of criminals like the foreigner—the negro—the bad woman—the moron and the first offender. Whether corporal punishment on crime would in any respect aid the enforcement of the law or tend to prevent crime is next considered with the suggestion that where criminals have received bodily punishment for certain offenses there has been a diminution of crime.

The suggestions of the distinguished Judge for changes which will remedy the present situation are in brief as follows: that the rules of Court concerning forms, practice and procedure shall be according to the sound discretion of the Court directory only and not mandatory; that the defendant in a criminal case may testify or not as he chooses, but if he fails to testify, both judge and counsel may comment on such failure; enlarging the power to amend the indictment or information; that the court may in its discretion charge the jury both orally and in writing, objections to the charge to be made before the court alone, before the jury retires; denial of bail to defendants formerly convicted of a felony; denial of parole or probation to habitual criminals; a five-sixths verdict jury shall be sufficient to convict, except where the death penalty may be imposed in which case the verdict must be unanimous; enlarging the powers of the court in examinations of the trial jury.

Judge Kavanagh suggests two proposed constitutional amendments. First, that a defendant in a criminal case may waive trial by jury and the finding of the judge shall have the same force and effect as the verdict of a jury. Second, the Supreme Court upon an appeal shall have the same power with respect to entering judgment in criminal cases that it has in civil cases, and may enlarge or reduce the sentence, and if necessary may hear additional evidence.
This book is an extremely important addition to the literature of the subject which it covers and will receive, as it merits, the thoughtful consideration of all who are interested, as all good citizens should be, in the enforcement of the criminal law.


This is the third edition of a valuable treatise on Federal Practice and Procedure and includes all important Acts of Congress, Decisions of the Supreme Court to and including the Act of February 13, 1925.

The treatment of the subject of Jurisdiction is valuable and significant. The distinction between the Federal Courts as Courts of limited Jurisdiction while the Jurisdiction of the Superior State Courts are general indicates the mode of treatment of this subject. There is a special chapter on the Supreme Court and its Original Jurisdiction; The Criminal Jurisdiction and Procedure of the Federal Courts; there is a valuable discussion of the distinction between those cases in which the District Courts of the United States have exclusive jurisdiction and those in which the District Courts have jurisdiction concurrent with the jurisdiction of the State Courts; that the amount in a controversy is a significant jurisdictional fact is treated at length as well as cases arising under the provision as to Diversity of Citizenship; the Jurisdiction of the Federal Courts as affected by Assignments and the right of the Assignee to recover his claim is treated by the author at considerable length; as in all similar treatises there is a special chapter on Removal of Causes from the State to the Federal Courts.

In his treatment of the Ancillary Jurisdiction of the Federal Courts, Judge Rose has marked out new ground for himself and has considered questions which are not commonly treated in books of this nature. There are special chapters on the Appellate Jurisdiction of the Federal Courts as well as Writs of Error from the Supreme Courts to the State Courts.

The book is thoroughly well done and will prove extremely helpful both to law students as well as to practitioners engaged in the trial of cases in the Federal Courts.


The author of this book has ably succeeded in describing the steps necessary to prosecute an appeal from the United States Board of Tax Appeals, and to procure a refund of taxes illegally collected.

The book is divided into four parts:
I. Appellate Review of Decisions of the United States Board of Tax Appeals.
II. Recovery of Taxes Illegally Collected.
III. Tax suits before the United States Court of Claims.
IV. Tax cases that may be reviewed by the United States Supreme Court.

In addition the rules of court, and the provisions of the Federal Statutes relating to tax cases are included.

In Part I the author gives an interesting historical discussion of the theory of tax collection; explains what decisions may be reviewed; the advisability of reserving questions before the Board; the nature and form of review; prerequisites to be followed to obtain review under special uniform rules applicable to Board of Tax Appeal cases. He discusses appeals from Federal District Courts; the effect of the Act abolishing writs of error and procedure before the Circuit Court of Appeals.

In Part II there is a general discussion of the nature of suits for the recovery of taxes illegally collected and the courts in which such suits may be maintained, followed by a discussion of the practice in suits before the District Courts for the
recovery of taxes, the evidence and other matters concerning the trial.

Part III outlines the system of practice and procedure in tax suits before the United States Court of Claims. Each step is carefully explained and logically arranged.

In Part IV the author has pointed out what tax cases may be reviewed by the Supreme Court.

In the appendix there are numerous forms for use in the various actions outlined in the earlier chapters together with the rules of court and the federal statutes relating to tax cases.

This book is complete in every respect. It includes a wealth of information, simplifies the difficulties which abound in tax cases, contains many practical suggestions and forms, cites numerous decisions and furnishes a clear interpretation of the various statutes having to do with tax matters. It should be valuable to the experienced tax practitioner because it is in effect a miniature library on tax matters. For the practitioner who handles only an occasional tax matter it should likewise prove of great benefit as a guide through the maze of procedure difficulties that confront him.

The law student not infrequently has little opportunity in college to study the laws pertaining to tax appeals. This book can therefore be read by him as a means of rounding out his legal education.

---


This book is an attempt to place within the grasp of Lawyers, Title Men, Realty Dealers and Students the information essential to acquisition of skill in searching, abstracting and judging land titles, and also as to how to prepare the necessary instruments and the procedure of contract and closing. There is no attempt to give the abstract and technical rules governing the law of Real Property. Neither is it a mere hand book of information. It pursues a middle course whereby the student acquires the necessary practical information and an introduction to the more abstruse rules of law with which the lawyer must necessarily be familiar.

The practicing lawyer finds in the book a valuable source of information as to how to proceed in a given case to close a deal or to search, abstract and close titles. It contains an explanation of the multitude of items which should be included in the description of property. The various instruments used to transfer ownership and to create liens and encumbrances are described, there being a reproduction of more than 200 forms used in real estate title and conveyancing work. There is a complete outline of all the factors to be considered in the development of ownership of Real Property and a statement of essentials as to each particular topic. The book is to be commended to all whose interest in realty transactions is not confined to the technical rules of law governing the same.

---


This is the second edition of one of the most helpful text books for the purpose of study by law students that has ever been written. While it is true that it is intended to be used in connection with the author's select cases on the law of Bailments and Carriers yet it has independent value for general practitioners in the discussion of the legal questions involved within the general scope of its subject matter. The first edition of the book appeared in 1904. Since that time there has been such great changes due to statutory and commission regulation of carriers that it became imperative that the text should be revised and brought down to date. This work has been done by Mr. Cullen, Professor of Law of Washington University, St. Louis, Mo., and has been well done. The book can be recommended for general use by law students as the basis of review and preparation for examinations both in class as well as for admission to the bar.