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Book Reviews

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BOOK REVIEWS


The principal original development in legal writing in recent years has been evidenced by attempts, in some of the states, to keep busy lawyers promptly and readily informed of trends and changes in local law. This publication has participated in that effort by printing an annual Survey of Illinois Law for each of the past eight years. In these several surveys, attention has been called to significant judicial decisions affecting the law of Illinois as well as to legislative additions to, or alterations in, the body of its statute law. We have, however, confined our attention to the legal system of but a single state, preferring to cultivate our own vinyard thoroughly rather than to scatter our efforts over a vaster area. We take modest pride in the success of our efforts as we welcome an even more elaborate survey on a national scale.

The volume of legal materials issued in this country in the course of one year is phenomenally great. So much so, in fact, that a conscientious reader would have to devour the equivalent of 215 novels of average length to cover the reported decisions of the judiciary and the legislative enactments alone. If, to this mass, should be added the manifold administrative regulations, rules, decisions, etc., which pour from the lesser tribunals, the result would be "beyond the capacity of the most devoted student of the law to read, much less digest and absorb." While by far the most of this material is chaff, it cannot be neglected for it often yields precious grains, frequently in the most unexpected places. The lawyer must, therefore, either waste hours in unprofitable labor or else rely on the judgment of others to bring to his attention those things which are of more than passing moment. The thesis on which legal surveys are based is, then, simply one of presenting a synthesis of these cumbersome materials; pouring from them the pure effusion of a law in growth, while leaving the dross behind.

It can be left to the words of others to tell how successfully the volumes here discussed perform that function as well as to indicate how valued a contribution future volumes will make in after years. As we subscribe to their purpose, so do we now congratulate their compilers on the excellent start they have made toward bringing a knowledge of the

1 See the December issues of CHICAGO-KENT LAW REVIEW, Vols. 17 to 24 inclusive.
2 1942 Ann. Surv. of Am. L., p. v.
3 See, for example, reviews of some of these volumes in 32 Am. Bar Jour. 104 and 11 Mo. L. Rev. 75.
growth of law within reasonable comprehension. We, as only those who
labor in the same field can be aware, are conscious of the tremendous
effort they have put forth. We express a sincere hope that the effort will
not be abated.

There are, however, some observations that may be drawn from a
comparison of the three volumes issued to date. The first, dating back
to 1942 on the premise that "Pearl Harbor marked as definite a transition
in American life as did the Declaration of Independence or the election
of Abraham Lincoln," set the framework around which the subsequent
volumes were chiefly compiled. It is divided into five major parts dealing
with Public Law in general, Public Law as embodied in social, business
and labor regulation, Private Law, Adjective Law, and a concluding
section on Legal Philosophy, History and Reform.

Within these topics a varying amount of space has been devoted to
many sub-topics wherein are discussed particular developments in
specialized subjects. In general, the arrangement is based on even if it
does not follow the Corpus Juris classification, but ample tables as well
as a topical index make it possible for one not experienced therewith to
find any particular point quite readily. All developments noted have
been objectively reported for, within the compass of a handy volume, no
extended critical treatment or consideration of the ramifications leading
therefrom can be given. An excellent pointer in that direction, however,
has been provided by calling attention to the more extended discussions,
comments and the like appearing in the various law reviews.

Much the same plan has been followed in the volumes for 1943 and
1944, although it apparently has been found desirable to combine or to
separate some of the sub-topics. Some subtitles have disappeared while
new ones have appeared. A more conscious effort seems to have been
made, in these volumes, to annotate the material cited, not only to the
law reviews but also to the standard collections of annotated decisions.
While these references are by no means complete, such lapses can well
be excused by any one familiar with the tremendous amount of drudgery
involved in compiling material of this character. It may be that future
volumes will provide a more comprehensive picture of the law in growth,
for the profession will undoubtedly turn to these annual surveys for help
not alone in seeing what has happened in the law but also to seek guidance
in the significance of these events.

4 See foreword by Dean Vanderbilt in 1942 Ann. Surv. of Am. L., p. vii.
5 The break in the 1944 volume between Criminal Law and Criminal Procedure,
by the interposition of the topic on Family Relations, is unfortunate. Treatment
of the non-incorporated association under the heading of Family Relations, while
technically correct according to the Corpus Juris classification, has always seemed
unrealistic to the writer. It is doubtful, though, if agreement could ever be ob-
tained over any arbitrary system of classification.
It is, as yet, too soon to draw from these volumes any conclusion as to the direction or directions in which the law is growing. But some interesting inferences may be gathered from a statistical comparison of the space devoted to the various topics in the first three volumes. That part of each dealing with public law undoubtedly reflects the expanded emphasis placed on governmental activity during war. The 477 pages sufficient in 1942, have expanded to 600 in 1944, with a pronounced jump in the sub-topic on Constitutional Law in the latest volume. Private Law, has in the main, remained relatively constant except that an added sub-section on corporate reorganization as well as an increase in the material on torts may be straws pointing out winds blowing from these quarters. Slightly more space has been required to give the latest developments in adjective law as compared to earlier reporting but the discussion of evidence problems has not varied in length in any year. A section on legal history, added in 1943 and repeated in 1944, throws welcome light on many recent publications which have enriched the totality of knowledge concerning our legal ancestry.

One need hardly add that these volumes, although not designed for that purpose, will provide the returning lawyer-veteran with a complete account of what has happened to the law in his absence. While not, in any sense, a refresher course, they will enable him to pick up and reweave the threads of a broken connection.

W. F. ZACHARIAS


There is today probably no field in which lawyers are bombarded more frequently with miscellaneous questions than in the field of veterans' rights. Too often, neither the magnitude of the questions themselves nor the circumstances under which they are asked will justify extensive research. This recently published work seems to provide a proper and adequate solution to a practical problem confronting lawyers. Characterized by its publishers as an encyclopedia, the work follows the general format of American Jurisprudence, not alone in the matter of text and footnotes but as to the table of contents also. Similarity of form plus the fact that the rather ample index is reminiscent of the A. L. R. Blue Book join to give one the feeling that he is working with a familiar tool rather than with a new publication.

In lieu of the familiar case citations of American Jurisprudence, the footnotes are filled for the most part with citations of statutes and regulations, the substance of which is ordinarily set forth rather fully.
Where judicial decisions are cited, as in the section on insurance, the holdings are often summarized sufficiently to be usable without reference to the decisions themselves. Many pages present the appearance of annotations from A. L. R. rather than the style which would be expected from a legal encyclopedia. The text is implemented with charts, as in the case of tables for conversion of service insurance, and with complete sets of forms. The seventy-five page section devoted to loans, for example, includes thirty-three pages of forms. Over four hundred pages are given over to appendices containing applicable federal statutes and regulations in full, summaries of state laws, and lists of offices and agencies connected with veterans and their problems.

On the whole, the work is surprisingly self-sufficient. While furnishing a ready reference handbook, "spot" investigation would seem to indicate that on many topics the book actually furnishes an exhaustive treatment of the law.

G. S. STANSELL


The legal profession has often, and frequently deservedly, derided the issuance of publications designed to teach the client how to be his own lawyer. If this were a book of that character, little more need be said for the danger to be found in placing books of the "how to do" kind in the hands of the inexperienced is too well known to warrant more than an admonitory caution. Mr. Kratovil's book, however, cannot be so cavalierly disregarded, for it represents a comprehensive, well-executed summary of many important facts about real estate law concerning which the average land owner or contemplating owner ought to be more informed for his own protection.

It is professedly written, to the greatest extent possible, in language that the layman could understand and is made even more obvious by simple illustrative examples. For that reason, its reduction of complex real estate problems to the simplicity of a primer would be apt to cause a sense of frustration in the mind of an experienced real estate practitioner. It is, however, an up-to-the-minute work with sufficient citation of authority to serve as the starting point for more extensive research, and it contains many a little warning for the lawyer who might, in the course of a busy practice, overlook some incidental but not insignificant point.

The work ranges over the field of real estate law to include such widely diversified topics as fixtures, deeds, escrows, evidences of title, descent, taxes, zoning, dedications, and rent control, to mention but a few.
Necessarily, its breadth prevents the depth that one expects from a Tiffany or other noted writers on the subject. Works like theirs cannot be compressed into a scant 350 pages. One can profit, however, from a frequent reference to this little book for it can serve as a handy desk guide through an intricate subject. It could, likewise, be safely placed in the hands of a client who seeks information about his property or an explanation of the varied terms used in connection therewith. There is much contained therein that, if nothing else, might help him understand the risks that can flow from trying to be his own lawyer.

W. F. Zacharias


Evaluation of a text on business law designed for use in undergraduate colleges would ordinarily be expected on a different level than that customarily found in professional publications. There need be no apology, however, for calling attention to this excellent revision of a well-planned work on law as it affects business. Modelled somewhat along the lines of Ernest W. Huffcut’s "The Elements of Business Law," a book familiar to many of our older readers, it provides not only a black-letter statement of major legal principles with discussion thereof but also furnishes many helpful illustrations, some reference to cases, and a series of questions after each section. An abridged dictionary of legal terms is also provided. If there should be any of our readers who, in addition to ordinary duties, may be engaged in teaching a course of this character, we recommend this book to them for adoption as it is a modern and comprehensive work fully adequate for its purpose.

General Practice Monographs (Paper: 17 parts totalling 800 pages); Trial Practice Monographs (Paper: 26 parts totalling 1000 pages); Significant Developments in the Law During the War Years (Paper: 22 numbers totalling 600 pages). Practising Law Institute: New York, 1946.

Three sets of monographs designed to aid lawyers in improving their professional knowledge and skill are now being made available in handy pocket form; the first two under the sponsorship of the American Bar Association’s Section of Legal Education, the third being published for the Association of American Law Schools. Compiled by skilled practitioners and law teachers, these monographs serve to demonstrate, step by step, how to solve typical problems as well as help to keep the lawyer
BOOK REVIEWS

up to date on changes and developments in a wide variety of fields. They are detailed and comprehensive yet at the same time are intensely practical.

It is not possible to publish a complete catalog of the subjects discussed, for a total of sixty-five separate topics are dealt with or will be discussed in the three series, but some indication of the breadth of material treated can be gathered from topics picked at random. One of the General Practice Series, for example, is entitled "Reduction of Real Estate Taxes," one on trial practice discusses the strategy and technique of depositions, while a third, part of the Significant Developments Series, carries the keynote subtitle of "The Erie Era." Particularly helpful, especially to the newly admitted lawyer or senior student, is the pamphlet by Harold P. Seligson, Director of the Practising Law Institute, on the subject of building a practice. It contains many wise suggestions and much sound advice that could save the novice from perpetrating dangerous blunders at the start of his career.


Lawyers are generally familiar with the fact that the new federal Rules of Criminal Procedure, governing the administration of criminal justice in the federal courts, became effective on March 21, 1946. A long struggle to achieve procedural reform in the field of criminal law thereby came to a triumphant close. Comparable in form and effect to the Rules of Civil Procedure adopted in the federal courts, these new rules now make for a uniform practice in criminal cases around the country. These two sets of rules become a model for similar reforms in state court procedure, both civil and criminal, which could go far toward achieving a desirable uniformity in procedure in all courts. There is no reason why the local lawyer in the North should approach the desired goal of attaining justice by one means while his brother lawyer from the South reaches that same goal by another. What is true for the East, could well be true for the West. If such were the case, the burden of procedural instruction in the law schools would be considerably lightened.

The instant volume presents the official text of these new rules together with much helpful explanatory material in the form of notes. These notes not only provide the historical basis for the rules but also serve to indicate whether any given rule merely reiterates the former practice, deviates from it, or rejects older ideas. If the latter, explanation is provided as to the reason for the change in practice. Some additional light is shed by the printing of the stenographic report of the proceedings
of an Institute on the rules conducted by New York University School of Law in collaboration with certain of the bar associations. That Institute appears to have been conducted with the informality which customarily is found in panel discussions so the remarks made are not always clarifying. They do serve, however, to illustrate the purposes of the framers since many of the speakers served on the Advisory Committee which was charged with the preparation and compilation of the new rules.

Surprise might be expected over the fact that the new rules permit the defendant to waive indictment in all cases except those in which the punishment may be by the death penalty. The utility of a rule permitting waiver of indictment cannot be disputed, but its constitutionality may be doubted. If the language of the Fifth Amendment is given the same constitutional meaning as was given to similar language of the New York Constitution in the case of People ex rel. Battista v. Chapman, it would seem that indictment cannot be waived in the case of capital or otherwise infamous crimes no matter how willing the defendant might be. If, in contrast, the method of prosecution is simply a matter of defendant’s procedural choice, there is no apparent justification in recognizing his choice in some respects but not in others. While the United States Supreme Court has never specifically passed on the question, one is led to wonder if that court, by submitting these rules, is not prejudging a question which may some day rise to plague it. The answer might be found in the treatment accorded to the rule of civil procedure dealing with the right to compel physical examination of the plaintiff. By changing a substantial right there concerned into a mere matter of procedure, a way around constitutional objections was devised. If that avenue is followed, it would still leave the new rule open to criticism. Should the court some day conclude that the method of prosecution is a matter of the defendant’s procedural choice, it would then seem to follow that the court must admit that his right to claim or waive the privilege should go unhampered in all cases.