

## Introduction

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## SECOND CIRCUIT NOTE 1977 TERM

### INTRODUCTION

In Volume 46 of the *St. John's Law Review*, the editors introduced the first issue of the *Second Circuit Note* which surveyed and commented upon significant decisions of the 1970 Term of the United States Court of Appeals for the Second Circuit. In the *Foreword* of that issue, then Chief Judge Henry J. Friendly commented upon this undertaking by the *Law Review* as follows:

Another university's law review published a note about our court seven years ago. Evidently, it did not regard us as deserving continued attention. Perhaps it was right; the proof of this new pudding will be in the eating. Something will depend on us as well as on you, and something on the sheer luck of the draw. St. John's thus ought not to regard this promise, made without consideration, in the contractual sense, as a commitment *in perpetuo* if the results should be disappointing.\*

With a view towards improving the quality of the *Law Review*, this year's Editorial Board undertook to revise the format of our issues. Thus, in future volumes of the *Law Review*, the *Second Circuit Note* will not appear as a separate issue. Rather, significant cases of the Second Circuit will be commented upon at the discretion of the editors in the Notes and Comments section of each book. Among the several factors considered by the Board in adopting this revised format was the problem of timeliness attending the publication of an issue which purports to cover an entire term of the court. For example, cases decided in the beginning months of the term and selected for student written notes often were more than 12 months old by the time the piece appeared in print. Moreover, since many of the cases we chose to comment upon dealt with unsettled issues of law, the possibility of review by the Supreme Court always threatened to preempt our treatment.

In our decision to change the format of the *Law Review*, we neither regard the Second Circuit as undeserving of our "continued attention" nor consider the results of the several *Second Circuit Notes* to be disappointing. It is hoped that the newly adopted format will permit the publication of case comments within a few months of the decision, in a manner consistent with the objectives of the editors who inaugurated the *Second Circuit Note* in 1970.

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\* Friendly, *Foreword: The "Law of the Circuit" and All That*, 46 ST. JOHN'S L. REV. 406, 406 (1972) (footnotes omitted).

In this issue, the *Law Review* is honored to present a *Foreword* authored by Senior Circuit Judge Harold R. Medina and entitled "The 'Old' Second Circuit in 1951." In his unique and delightfully personal style, Judge Medina discusses the day-to-day operations of the Second Circuit as it was over 28 years ago when he was named to the bench as successor to the Honorable Learned Hand.

This last issue of the *Second Circuit Note* also offers to the practitioner an examination of a number of decisions of the Second Circuit during its September 1977 Term, including *Intermeat, Inc. v. American Poultry, Inc.* and *O'Connor v. Lee-Hy Paving Corp.* (New York's attachment statute and *Seider* doctrine held valid after *Shaffer v. Heitner*), *Redington v. Touche Ross & Co.* (private cause of action recognized under section 17(a) of the Securities Exchange Act of 1934), *Rolk v. Blyth Eastman Dillon & Co.* (aiding and abetting liability imposed in a private damage action under rule 10b-5), and *Shore v. Parklane Hosiery Co.* (issues of fact litigated in a nonjury SEC injunctive suit given collateral estoppel effect in subsequent private damage action).

*The Editors*