

St. John's Law Review

Volume 47
Number 2 *Volume 47, December 1972, Number*
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Article 2

Introduction

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Introduction

This year's survey of the Second Circuit Court of Appeals* varies slightly from the format initiated last year. The textual treatment of the individual decisions has been expanded to present a fuller critical analysis while, at the same time, retaining the reportorial design. The in depth research provided in the footnotes, which is an essential element of this survey, has not been sacrificed.

Highlighting this edition of the Second Circuit Note is the inclusion of an additional topic area—Environmental Law. Since the enactment of the National Environmental Policy Act of 1969 all federal agencies have been under a duty to consider ecological ramifications in connection with their actions. However, the extent of that duty has been debated and the courts are now being called upon to resolve the conflict. Three recent Second Circuit decisions, reported herein, provide a substantial basis for the “law of the circuit” on NEPA mandates. Also, since the majority of the Circuits have yet to face the questions presented before the Second Circuit, these decisions may significantly influence other courts as the issues evolve.

Among the other topic areas the Criminal Law section stands out as the largest in both the number of cases treated (nine) and pages covered (63). Included in this area treatment is a potentially important development in appellate review of sentencing and three decisions involving the fourth amendment prohibitions against unreasonable searches and seizures.

The remaining sections incorporate the following case discussions: Administrative Law—a decision limiting the effectiveness of the Freedom of Information Act; Constitutional Law—the retroactivity of a Supreme Court case constricting the subject matter jurisdiction of military tribunals; Federal Jurisdiction and Practice—developments in class actions; Securities Law—significant new interpretations of sections 13(d) and 16(b) of the 1934 Act; Taxation—expanded application of section 482.

THE EDITORS

* This 1971 Term survey is comprised of decisions argued between September 1, 1971 and September 1, 1972.