

In and Out of Court (Book Review)

Travers E. Devlin

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

Devlin, Travers E. (1942) "In and Out of Court (Book Review)," *St. John's Law Review*: Vol. 16 : No. 2 , Article 23.
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol16/iss2/23>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact lasalar@stjohns.edu.

during the many years of administration of these taxes, Part One opens up to the reader the vast extent of the authors' contact with New York tax administration.

Part Two, dealing with personal income taxes, has the advantage of dealing with a subject that had been fairly well covered by regulations and rulings which supplement the administration of the law. The chapters on estates and trusts, on taxation of nonresidents, and on capital gains and losses are excellent and thorough. The chapter on exclusions from gross income contains a helpful analysis of the exempt interest provisions. Likewise, with the chapter on interest, which, however, might have embraced a discussion of interest on bonds in default purchased flat.

In covering the broad field, many important subjects are disposed of in brief and succinct paragraphs. Witness the discussion on the treatment of cancellation of debts at the close of Chapter 30, and the classification of brokers, traders, dealers and specialists in Chapter 33. The technical aspects, dealing with the basis of property distributed in kind to a partner, are neatly disposed of, in a few words, in Chapter 39.

A practical aid is also furnished in the table of differences between the state and federal laws dealing with personal incomes. A phase in this analysis which is open to question relates to the nature of distributions out of income earned prior to January 1, 1919. Both at this point, as well as in Chapter 32, the position is taken that such dividends are capital, on the authority of Article 78 of Personal Income Tax Regulations 40. This article, however, deals with the general question of income accruing prior to January 1, 1919 and should be considered in conjunction with Article 61 relating to dividends. Article 61 provides that dividends are income in the year in which payable, regardless of when the earnings or profits out of which they were paid were accumulated.

The volume as a whole could probably be as effective without the inclusion of Part Three which contains the text of the law and regulations and could possibly do without the forms which are scattered through Parts One and Two since these are generally available and represent no original contribution.

Taxpayers and their representatives should be very grateful for the years of effort of two leading tax practitioners who have given of their knowledge and experience as attorneys and accountants to produce this publication.

BENJAMIN GRUND.*

IN AND OUT OF COURT. By Francis X. Busch, Esq. Chicago: De Paul University Press, 1942, pp. 306.

Current activities of experienced practitioners in the fields of law and of medicine have caused a flow of memoirs from the presses of various and sundry book publishing companies. This is the latest in the legal series.

The author was admitted to the bar of the State of Illinois in 1901; after having spent some years as a court reporter. Since commencing practice, he

* Attorney and Counsellor at Law.

has specialized and gained an enviable reputation in the trial of civil and criminal cases. He has also been a legal educator, teaching in the Illinois College of Law, later absorbed by De Paul University, and subsequently becoming Dean of its Evening Law School, in which position he served until 1923 when he became Dean Emeritus. His prior publications have been strictly confined to law books.

The editor states in the frontispiece, that this book provides "more practical instructions for the young trial lawyer and law student than are to be found in a hundred orthodox law books." With this statement, your reviewer whole-heartedly disagrees.

The book is essentially a compilation of interesting anecdotes detailing occurrences during trials in which the author either took a part, or was an observer. Various colorful members of the Illinois Bar, and judges in the different courts of that state, appear frequently in the many short stories told.

Interesting factual situations are presented, clever bits of cross-examination are related, and unusual and humorous rulings by certain members of the judiciary are told. The book makes absorbing albeit light reading and can be highly recommended for an evening's entertainment. However, its value in practical instruction is almost nil. No summary of the contents can herein be presented, because there is no particular point made by the book, nor has it a plot or central theme. It can be likened to a collection of O. Henry stories, with similar wide variations of characters and surprising or unusual conclusions.

The book, having as its situs Chicago, gives a good description of the practice of law in a large metropolis during the early part of this century. Court-room procedure was decidedly more informal then, than now. Trial counsel apparently were then permitted much greater liberty in cross-examination and in making pointed observations respecting witnesses and even the court itself. A spirit of friendliness among the judges and opposing counsel then prevailed. But then, as now, the most important weapon in the trial counsel's artillery was intensive investigation. If any point is made by this book, it is in again and again impressing upon the reader the indisputable principle that the investigation of facts and the preparation of the law pertaining to the facts are the foundations of a successful trial.

TRAVERS E. DEVLIN.*

SUPPLEMENT TO CASES AND MATERIALS ON NEW YORK PLEADING AND PRACTICE.
Parts I and II. By Louis Prashker. Brooklyn, N. Y., 1942, pp. 542.

Probably the most discouraging feature of any legal publication on current law, is that its usefulness begins to be impaired with the date of publication. Fresh from the press, it begins to deteriorate by the enactment of new legis-

* Trial Counsel, Hudson & Manhattan Railroad Company.