

New York Election Law Manual with Forms (Book Review)

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the law, and reading this book is like reading a running commentary on judicial action.

Some of the things discussed are difficult of objective appraisal, as when the author treats of those delicate hairline concepts involved in the psychological backgrounds of judicial decision.

As one examines this work he feels the familiarity with practice and with affairs of the world which the author reveals. He recognizes the realization which must have come as a result of many years of trained observation, that the average layman's view of the law is so frequently the result of hardships encountered, that it is difficult not to sympathize with the general feeling of discouragement that often exists.

A matter of some importance to law students is unfortunately not discussed in the book, for Mr. Jackson's views in regard to it would certainly be extremely enlightening. I refer to the effect of the quality of a lawyer's work upon legal consequences. Surely, Mr. Jackson must be aware of the varying consequences which flow from the technical efficiency with which some lawyers are equipped. He has not spoken of the place of legal training in the administration of justice. Perhaps that is a book by itself, and perhaps Mr. Jackson will some day write it. It would be of great interest to all of us to know what a man of affairs, himself highly skilled, considers the essential ingredients of a lawyer's training.

This volume lures the reader on to the very last page. It is not only stylistically seductive but is permeated with interesting and enlightening accounts of actual experiences which tend to punctuate the points which the author seeks to make. Judges who have had years of experience on the Bench have recommended this book and opined that it should be required reading for law students. If law students would generally study its contents, many interesting questions might be raised in the classroom which might give direction and pause to consideration of the technical problems even of trespass and the rule against perpetuities.

MAURICE FINKELSTEIN.*

NEW YORK ELECTION LAW MANUAL WITH FORMS. By Lewis Abrahams. New York: H. Wolff Book Co., 1939, pp. xxi, 274. Distributed by Edward Thompson Co., Brooklyn, N. Y.

Lawyers, judges and candidates for elective office have long felt the need of a comprehensive and authoritative text on the Election Law. Curiously enough, despite the numerous questions which arise, and the mass of litigation which has come into the courts in recent years, there was until now no up-to-date manual on the Election Law. Probably the reason for this was twofold: *first*, because the field of Election Law is naturally limited, and *second*, because the law is constantly being changed by the Legislature.

Mr. Abrahams' *New York Election Law Manual With Forms* is a valuable outline of procedure for candidates. It contains a comprehensive compilation

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of all the Election Law cases within the past four years. All special term and appellate court decisions are included, carefully indexed and evaluated. Whenever necessary, important older precedents are given.

The book is well written, clear, simple and readable. It consists of eight chapters covering Suffrage, Party Committee and Committeemen, Petitions, Candidates, Ballots, Judicial Proceedings, Board of Elections, and Proportional Representation. It also contains twenty election forms most frequently used.

A person desiring to become a candidate will find an easy outline of procedure in this book. To the experienced practitioner in the field of Election Law, the book will be helpful for its clear and careful collation of authorities. It will be even more valuable to the novice brave enough to try his hand at election litigation.

When one considers the speed with which election litigation must be completed, and the complications that arise, the value of a manual outlining procedure and furnishing authorities will be appreciated.

In recent years numerous questions have come before the courts on various aspects of the Election Law. Attacks have been made on the validity of designating and nominating petitions, recounts have been sought after primary elections, new primary elections have been asked because of fraud, intimidation or coercion, and inspection and re-canvass of voting machines have been asked.

The careful enactment of election laws and their proper interpretation and enforcement insure the carrying out of the people's will in elections. This, in essence, is democratic government.

So we find that the Election Law specifically provides that it shall be liberally construed. The Legislature has conferred wide summary jurisdiction upon the courts to insure fair conduct of elections and has vested the Supreme Court with summary jurisdiction to determine all questions of law and fact arising under the Election Law.

The field of election litigation is highly specialized and technical. The time element is of the utmost importance, as primary and general elections cannot be postponed pending litigation.

Decisions usually have to be made by the courts without opportunity for research and study. Appeals are heard forthwith on the original papers. In most instances the appeal is argued in the Appellate Division before the ink is dry on the order of the Special Term, and counsel often entrain directly from the Appellate Division to Albany for argument in the Court of Appeals.

Because of this lack of time, most judges give their ruling without opinion and the decisions of the appellate courts are usually memoranda decisions. The points involved, therefore, do not find their way into the digests or the annotations to the Election Law.

Mr. Abrahams has examined the original records of all the unreported decisions collated in his book and has given us the benefit of his exhaustive analysis and research. This will help to dispel much of the conflict which has arisen in the past.

In examining the unreported decisions we find divergent views. Some judges have held that signatories to a petition must sign in the presence of the subscribing witness; other judges have held that they need not. Some judges have held that the sheets of the petition must be consecutively numbered, else

they are defective; other judges have held to the contrary. Some judges have held that the voter must sign the petition himself; others have held that an agent may do so with the voter's authority. Some judges have held pencil signatures good; some have voided them. Some courts have voided entire sheets because the subscribing witness erred in setting forth his last voting address, or his election or assembly district; other courts have held this to be immaterial. Some judges have held that proof by affidavits that signatures were obtained by fraud or misrepresentation was sufficient; other judges have refused to accept affidavits and insist on the testimony of the witnesses.

All this confusion arose from the lack of reported authorities, and made it difficult to determine what the law was on any particular question. A lawyer citing a case as sustaining his contention might well have overlooked a subsequent reversal by the same court or by an appellate court, for lack of proper annotation of decisions.

Now all the rulings on these questions have been collated and analyzed in Mr. Abrahams' book, with the result that at one glance it is possible to ascertain the various rulings made by the courts during the past four years.

Mr. Justice Steinbrink has eloquently expressed the value of the book in his admirable introduction to it, which reads in part as follows:

"The New York Election Law Manual with Forms represents a comprehensive, painstaking and accurate study of the Election Law as it is applied in this state, and should be extremely helpful to those who are called upon to deal with problems relating to this subject. The arrangement of the subject matter as a whole is clear, and in accord with the authorities, and of special value are the Election Law Forms printed in the text. The references to the numerous unreported decisions rendered upon this subject, concisely written in narrative form, create the basis for co-ordination and *Stare Decisis*."

CHARLES POKORNY.

RESTATEMENT OF THE LAW OF TORTS. Volume IV. St. Paul: American Law Institute Publishers, 1939, pp. xxiv, 830.

The final volume of the Torts Restatement, after continuing and concluding *Interference With Business Relations*, is a catch-all, into which, as everyone expected because of the obvious necessity for the expedient, have been gathered those topics of tort law which did not lend themselves to attention with the parts covered in the other volumes.

This reviewer has said¹ that the pattern or plan of the Restatement was generally to include in Volume I our heritage from the first trespass writ and all its parts, and in Volumes II and III to give us the modern law derived from case. Volume IV, catch-all volume, continues the work of Volumes II and III as our inheritance from trespass on the case, catch-all writ.

¹ (1939) 13 ST. JOHN'S L. REV. 465, in a review of the third volume of the RESTATEMENT OF TORTS.