JMN. 1959

VOL. XXVIII, NO. 3

## FORDHAM LAW REVIEW



## LEADING ARTICLES

THE DEFENSE OF ENTRAPMENT AND
RELATED PROBLEMS IN CRIMINAL PROSECUTION Paul W. Williams
EXTRATERRITORIALITY OF A CHATTEL SECURITY
INTEREST: A PLEA FOR THE BONA FIDE PURCHASER Jesse S. Raphael
TAXATION OF "CAPITAL GAINS" IN THE UNITED
STATES, THE UNITED KINGDOM AND CANADA William B. Peden
Assaults by Fellow Employees Under the
FELA AND THE JONES ACT John D. Calamari
INCOMPATIBLE MUNICIPAL OFFICES IN NEW YORK Richard B. Lillich
Jack A. Linton

See Page ii for Complete Table of Contents

## **CONTENTS**

## LEADING ARTICLES

PROBLEMS IN CRIMINAL PROSECUTION	399
Extraterritoriality of a Chattel Security Interest:  A Plea for the Bona Fide Purchaser	419
Taxation of "Capital Gains" in the United States, The United Kingdom and Canada	435
Assaults by Fellow Employees Under the FELA AND THE JONES ACT	449
Incompatible Municipal Offices in New York	463
COMMENTS	
Interstate Commerce and State Taxing Power	493
FEDERAL APPELLATE REVIEW OF EXCESSIVE OR INADEQUATE DAMAGE AWARDS	500
Stipulations Ousting Admiralty Courts of Jurisdiction	506
Deprivation of Social Security Benefits: A Constitutional Analysis	512
CASE NOTES	
Constitutional Law—First Amendment Not Violated by Inquiry of Committee on Un-American Activities (Barenblatt v. United States, 360 U.S. 109 (1959))	522
Constitutional Law—State Statute Penalizing Refusal To Admit Health Officer Without Search Warrant (Frank v. Maryland, 359 U.S. 360 (1959))	529
CRIMINAL LAW—DOUBLE JEOPARDY ARISING OUT OF DISCHARGE OF JURY FOR "CON- VENIENCE" (People v. Colon, 18 Misc. 2d 1061, 184 N.Y.S.2d 537 (N.Y. Ct. Gen. Sess. 1959))	534
<u>«</u>	JJ4

DISCOVERY—STRIKING COMPLAINT UPON PLAINTIFF'S INVOCATION OF PRIVILEGE AGAINST SELF INCRIMINATION (Levine v. Bornstein, 7 App. Div. 2d 995, 183 N.Y.S.2d 868 (2d Dep't) (memorandum decision), aff'd mem., 6 N.Y.2d 892, 160 N.E.2d 921, 190 N.Y.S.2d 702 (1959))	537
HABEAS CORPUS—CONTEMPT PROCEEDING PURSUANT TO SECTION 406 OF NEW YORK CIVIL PRACTICE ACT (People ex rel. Valenti v. McCloskey, 6 N.Y.2d 390, 160 N.E.2d 647, 189 N.Y.S.2d 898 (1959))	540
Interstate Commerce—Right of Shipper To Defend Against Unreasonable Rates in Postshipment Litigation (T.I.M.E., Inc. v. United States, 359 U.S. 464 (1959))	544
Mechanics' Liens—Equity Jurisdiction To Enter Personal Judgment Where Plaintiff's Equitable Action Fails (Gillespie v. Hynes, 168 Neb. 49, 95 N.W.2d 457 (1959))	548
PROCESS—FEDERAL LAW AS DETERMINATIVE OF THE EFFECTIVENESS OF FEDERAL PROCESS ON FOREIGN CORPORATION (Nash-Ringel, Inc. v. Amana Refrigeration, Inc., 172 F. Supp. 524 (S.D.N.Y. 1959))	552
TAXATION—DEALER RESERVE ACCOUNTS ARE INCOME AS OF TIME RECORDED (Commissioner v. Hansen, 360 U.S. 446 (1959))	556
Torts—Liability of an Innkeeper for Personal Injuries to Guests (McKee v. Sheraton-Russell, Inc., 268 F.2d 669 (2d Cir. 1959))	559
Workmen's Compensation—Reopening of Disallowed Claim After Expiration of Statutory Period (Stimburis v. Leviton Mfg. Co., 5 N.Y.2d 360, 157 N.E.2d 621, 184 N.Y.S.2d 632 (1959))	562
BOOK REVIEWS	
ZEISEL, KALVEN AND BUCHHOLZ: DELAY IN THE COURT Alfred C. Clapp	566
PRETTYMAN: TRIAL BY AGENCY	569
Moskowitz: Human Rights and World Order Joseph D. Hassett, S.J.	570
MAYERS: SHALL WE AMEND THE FIFTH AMENDMENT? C. Dickerman Williams	574

\*