HARVARD LAW REVIEW

NOVEMBER, 1939

Five Years	WITH DOUGLAS V. WILLCUTS Randolph E. Paul	I
	AND EARLY DEVELOPMENT OF DIVIDEND LAW Donald Kehl 3	36
DEATH AND WHAT 10	Taxes Are Certain—But { Harrison Tweed Christopher S. Sargent } . 6	8

LEADING ARTICLES

COMPLETE TABLE OF CONTENTS OF THIS ISSUE ON PAGES V AND VI

THE PLIMPT	ON PRESS		Prir	ited in U.S.	A		=	
Editorial an	d Executive	e Office		G	annett He	ouse, Cambri	dg **	U.S.A.
Printed at				16	31 Lenox	Street, Norw	ood, Ma	ass., V.S.A.
	Copyri	ight. 1939	, by The H	lakvard	LAW REVI	EW ASSOCIATE	ION	
of Characters and the consequent	FOREIGN	SUBSC	RIPTIONS	, \$5. 00,	85 CEN	TS PER NU	IMBER	<u> </u>
\$4.50 PER						75 CENTS		
Published M	losthly Nove	mber to Ju	ine Inclusive	. Entered	i at Norwoo	d Post Office a	s second	-class matter

HARVARD LAW REVIEW

VOLUME LIII

NOVEMBER, 1939

NUMBER I

CONTENTS

LEADING ARTICLES	AGE
Five Years With Douglas v. Willcuts	Ī
The Origin and Early Development of American Dividend Law Donald Kehl	36
Death and Taxes Are Certain — But What of Domicile {Harrison Tweed Christopher S. Sargent}	68
Notes	
Reviewability of "Negative" Administrative Orders	98
The Morgan Cases: Retroactive Validation of Procedurally Defective Administrative Action	105
Refugees and the Professions	112
Streamlining the Indictment	122
RECENT CASES	
Administrative Law — Judicial Control — FCC Ordered to Confine Rehearing on Remand to Matter Left Open to It by Reviewing Court (<i>Pottsville Broadcasting Co. v. FCC</i> , App. D. C. 1939)	129
Administrative Law — Radio — Licensee of Radio Station Has Appealable Interest in Grant of Increased Power to Competitor (Yankee Network v. FCC,	·
App. D. C. 1939)	131
for Discharge in Pending Proceedings (In re Farrow, S. D. Calif. 1939)	132
Carriers — Passengers: Limitation of Liability — Validity as to Person Riding on Pass (Atlantic Greyhound Lines v. Skinner, Va. 1939)	133
Constitutional Law — Adoption and Amendment of Constitutions — Ratification of Amendment Held a Political Question Not Subject to Judicial Review (Coleman v. Miller, U. S. Sup. Ct. 1939)	134
Constitutional Law — Due Process — Equalization Pool in Milk Marketing Held Constitutional (United States v. Rock Royal Co-operative, Inc., U. S. Sup.	-
Ct. 1939)	136
Constitutional Law — Taxation — Tax on Salary of Federal Judge Held Constitutional (O'Malley v. Woodrough, U. S. Sup. Ct. 1939)	137
Uamages — Measure of Damages: Contracts — Cost of Completing Grading Contract Allowed Though Greater Than Value of Finished Project (Groves v. John Wunder Co., Minn. 1939)	138
Equitable Servitudes — Declaratory Judgments — Continued Depression of Building Costs Held Insufficient Basis for Declaratory Relief from Minimum Cost Building Restriction (Fidelity Title & Trust Co. v. Lomas & Nettleton Co.,	_
Conn. 1939)	139

Fair Trade Acts — Resale Price Restriction Enforced by Against Nonsignatory Price-Cutting Competitor (Port C. Shop, Inc. v. Miller Bros. Fruiterers, Inc., N. Y. 1939)	hester Wine & Liquor	140
Labor Law — National Labor Relations Act — Back Pay		
ployer to Reimburse Public Agency for Work Relief (Bol N. L. R. B. 1939)	demann Chocolate Co.,	141
Labor Law — National Labor Relations Act — Validity Employment with Back Pay of Men Discriminatorily Re Mills, Inc., N. L. R. B. 1939)	of Order Requiring fused Jobs (Waumbec	141
Libel and Slander — Radio — Broadcasting Corporation Ad Libbed Remark of One Not Its Agent (Summit Hotel casting Co., Pa. Sup. Ct. 1939)	Held Not Liable for Co. v. National Broad-	143
Mortgages — Rights of Mortgagee — Mortgagee Paying Protect Security Denied Restitution from Grantee W (Citizens Sav. Bank v. Guaranty Loan Co., R. I. 1939)	Delinquent Taxes to ho Did Not Assume	144
Negligence — Duty of Care — Manufacturer of Defecti Liable to Purchaser Not in Privity for Cost of Replace tracting Corporation v. Brooklyn Builders Supply Co., N.	ve Laths Held Not ement (A. J. P. Con-	145
Patents — Disclaimer — Effect on Unlitigated Claims of tinguishable Claim Previously Adjudicated Invalid (Mach. Co., U. S. Sup. Ct. 1939)	Disclaimer of Indis- Laylag Co. v. Hurley	145
Powers — Creditors of Life Tenant with Power to Co Support Entitled to Reach Unappointed Property (Hosk	nsume Principal for	147
Trusts - Restraints on Alienation of Cestui's Interest- Held to Prevent Charging Cestui's Interest to Satisfy I Trust (Blakemore v. Jones, Mass. 1939)	- Spendthrift Clause iability for Breach of	148
RECENT STATUTES		
Aliens — Disabilities — State Statute Requiring Certain A Carry Identification Cards (Pa. Act No. 304, 1939).		149
Constitutional Law — Freedom of Speech — Statutes Foring of Uniform of Official or Semi-Official Forces of (New York Laws 1939, c. 548; New Jersey Laws 1939,	Foreign Government	150
Book Reviews		
Brown: Lawyers and the Promotion of Justice Marshall: Swords and Symbols: The Technique of	Charles E. Clark	152
Sovereignty	$T. V. Smith \dots$	154
tions	Judson A. Crane .	156
Simes: Cases and Materials on the Law of Future Interests	Percy Bordwell	157
Sandifer: Evidence before International Tribunals	Edgar Turlington.	160
Carr, Finn and Saxe: Carmody's Manual of New York	•	
Practice	Samuel I. Rosenman	161
Campbell: Cases on Mortgages of Real Property	Oliver S. Rundell	162
Gottschalk: Impossibility of Performance in Contract.	George K. Gardner .	163
Lipson: The American Governor — from Figurehead to Leader	William Allen White	164
Book Notes		166
BOOKS RECEIVED		167