

U. S. Supreme Court 1928-1929

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BOOK REVIEWS

U. S. Supreme Court 1928-1929. By Hankin, published by Legal Research Service, Washington, D.C. 300 pp.

The author in this recent publication says: "Although the decisions of the Supreme Court deal with questions of law, they reflect the outstanding economic, political and social problems of the nation." The efforts of the authors were directed towards producing a work that would give to the mind of the average American reader a working knowledge of the work of our Supreme Court. The book therefore is written for the untrained mind and not for the mind of the student lawyer or law student. The average man in the profession, however, is kept so busy keeping apace with his daily work and local evolution of the law that he knows practically nothing about the work of the Supreme Court. For this reason, this review is of great value to the attorney who hopes some day to broaden the scope of his activity.

For the members of the bar, who are interested in federal legal problems, the Legal Research Service publishes a loose-leaf service known as the *U. S. Supreme Court Service*. For the general public, the Legal Research Service has a system of reporting decisions of the Supreme Court to newspapers and class publications. From the records of these two fields of endeavor, the authors have compiled the book in hand. The book confines itself to the work of the Supreme Court during the past year. The authors point out in the introduction, that the work could have been much more complete if they had allowed themselves to incorporate the historical background of the work covered by the Court but that to do that would involve the writing of a book rather than a review, and their primary object is to give to us a workable review.

The work of the Court has been divided into fifteen major parts. In the first chapter, we are told of how the Court functions—the number of cases brought to it each year, the nature of these cases, and manner in which six out of seven petitions for hearings are denied. The other fourteen parts are divided by the nature of these problems presented—Railroad Problems, Public Utilities, Insurance Questions, Banking Cases, Federal Taxation, State Taxation, Anti-trust Acts, Railroad Labor Problems, Jones Seamen's Act, Criminal Cases—Federal Offences, Political Issues, International and Race Questions, and the Judicial Veto. The enumerated topics are all interesting problems but to the mind of the student lawyer what little information is given regarding the jurisdiction of the court is of utmost interest and importance. Therefore, a shore review of the jurisdiction of the court is herewith given.

Cases which may be heard by the Court are divided into two classes: those that the litigant may take up as a matter of right, known as Appeals; all other cases brought by litigants which will be heard by the Court at its discretion—known as being heard on Certiorari.

APPEALS—MATTER OF RIGHT

Appeals may be roughly divided into the following classes:

1. An appeal from the decision of the highest court of the state, if the constitutionality of a state statute is in question, and that court has ruled that

the statute is not repugnant to the federal Constitution. Also an appeal may be taken from the decision of a state court which holds a federal law repugnant to the federal Constitution.

2. An appeal from the decision of the U. S. Circuit Court of Appeals which holds a statute invalid.

3. Direct to the Supreme Court from federal district courts in those cases wherein the petitioner seeks to enjoin the enforcement of a state statute or an order of a state or federal Commission, in which cases the petition for a preliminary injunction must have been heard by three judges, at least one of whom must be a Circuit Court judge or a Justice of the Supreme Court. Illustrations of the above class are the *New York Five Cent Fare* case and the *O'Fallon Railroad* case.

4. Direct to the Supreme Court from federal district courts in certain anti-trust cases and (where the Government is the appellant) in criminal cases.

The jurisdiction of the Court is fully outlined in the *Jurisdictional Act* of February 13, 1925. 43 Stat. 936.

WRITS OF CERTIORARI—DISCRETIONARY

The Court in its rules (Rule 38, Revised Rules of Supreme Court of the United States, effective July 1, 1928) has designated the general classes of cases which it will review:

1. Where there is conflict among the various circuits on the same subject matter.

2. Where a state court has decided a federal question, not theretofore determined, or in a way probably not in accord with the decisions of the Supreme Court.

3. Where a Circuit Court of Appeals decided a local question in conflict with local decisions, or a general question in conflict with the weight of authority or the decisions of the Supreme Court.

4. Where the lower federal court has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's power of supervision.

During the past year, 680 petitions for writs were submitted. Of this number, only 95 writs were granted. The other cases had to be dismissed for lack of a substantial federal question. About 50 per cent of the Appeals brought had to likewise be dismissed for lack of a substantial federal question. The Court, on many occasions, was obliged to stop counsel in the midst of their arguments, and dismiss the appeals for lack of jurisdiction. As these cases unnecessarily taxed the time of the Court, the Court adopted a rule (Rule 12, Revised Rules of Supreme Court of the United States, effective July 1, 1928) that in all cases on appeal, the appellant must file a preliminary statement showing that the case is properly before the Court. This, in effect, subjects the appeals to the same preliminary review as the cases on certiorari.

So much for the technical legal value of the book in hand to the law student and the student lawyer. Aside from the information so meagerly outlined here, the book has an abundance of information, skillfully arranged to show the reader the economic, political and social problems confronting the country in the past year as they have been presented to the Supreme Court. It makes interesting reading, so we suggest that you indulge in it—your time will be well invested.

JOHN J. McRAE