

Washington Law Review

Volume 2 | Issue 1

11-1-1926

Hyatt on Trials, by W.H. Hyatt (1924)

Ivan W. Goodner

University of Washington School of Law

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlr>



Part of the [Litigation Commons](#)

Recommended Citation

Ivan W. Goodner, Book Review, *Hyatt on Trials*, by W.H. Hyatt (1924), 2 Wash. L. & Rev. 57 (1926).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol2/iss1/11>

This Book Review is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact cnyberg@uw.edu.

in common law jurisdictions. In such a book the scholarship of the author is shown almost entirely in his judgment in choosing the cases and in the order in which he arranges them. In both of these respects this is one of the finest case books that has ever come to my attention. Every case is in point and with few exceptions well chosen to fill its place in the outline of the text. In this respect it is one of the best edited of all the so-called business law case books that has been published."

The book purports to be a selection of cases designed primarily for colleges and universities having schools of commerce or of business administration, and for courses in law given in various other technical and professional schools other than law schools.

In the hands of a trained and experienced law teacher, the use of the book should achieve excellent results and is likely to find a ready place among the leading case books of its kind in the American colleges and universities. Its publication has recently been taken over by Prentice-Hall, Inc., one of the largest publishers of business administration books in the country.

ALFRED J. SCHWEPPE.

CASES ON EQUITY. By Walter Wheeler Cook. St. Paul: West Publishing Co., 1926, pp. xix, 1167.

This casebook fills the need for an up-to-date collection of cases on the principles of equity in a single volume. The many notes are of value to the teacher in supplying references to recent cases and to articles in leading law periodicals dealing with the principles involved in the cases.

The cases included relate to both the subjects of Specific Performance of Contracts and Equitable Relief by Injunction against Torts. The cases are collected under five heads: Part I—The General Nature and Scope of Equity—Injunctions; Part II—Specific Performance of Contracts; Part III—Reformation and Rescission for Mistake; Part IV—Benefits Conferred Under Agreements Which Have Been Wholly or Partially Performed, Part V—Benefits Conferred Under Compulsion and Undue Influence; Part VI—Benefits Obtained by the Wrongful Use of Another's Property.

Part I includes an historical introduction and a note on Procedure in Equity.

The present edition is a selection of cases from the author's three volume edition. Material omitted from the larger volumes has been referred to in footnotes. The notes also serve to indicate the connection of equity with the relevant portions of the common law grouped under the heading of quasi-contracts.

The table of cases and citation include a number from Washington and other western states. The subject matter of the cases has been indexed, and the index which comprises some ten pages is very helpful in locating cases and notes bearing on a particular topic.

This abridged edition has been prepared at the request of schools which found it undesirable to use the three-volume set, and will undoubtedly be used by many as a single volume covering the whole field.

C. M. BISHOP.

HYATT ON TRIALS. By W. H. Hyatt. 2 Vol. San Francisco: Bender-Moss Co., 1924, pp. 2017.

This is a fine two-volume text book of 2017 pages, well bound in buckram. The author, W. H. Hyatt, is a San Francisco lawyer, and the work furnishes convincing evidence of the wide range of his reading, observation and practice. The book covers the trial of both civil and criminal cases in the state and federal courts.

Vol. I, Part I, Ch. I, gives a very interesting account of ancient judicial trials, without being wearisome in detail. Ch. II defines "trial" and explains the scope of the treatise. Part II, in eight chapters, covers the subjects of Calendars and Dockets, Trial Notices, Transfer of Causes, Consolidation for Trial, Separate Trials in Criminal Cases, Separate Trials in Civil Cases, Continuances and Change of Venue. Part III furnishes a careful consideration of

the subjects of Constitutional Right of Trial by Jury, Selecting and Summoning Jury Panel, Challenging Jurors, Competency of Jurors, Verdict of Jury, Care and Custody of Jury and Misconduct of Jury.

Vol. II, Part IV, embraces the subjects General Conduct of Trial, Conduct and Comments of Trial Judge, Reception of Evidence, Instructions, Argument of Counsel, Presentation and Withdrawal of Case, Province of Court and Jury, Objections and Exceptions during Trial. Part V covers Trial Without a Jury in two chapters; the first, Trial to the Court, and the second, Evidence.

This writer is impressed with the carefully prepared and sound discussion of the various topics and the ample elaboration of the text with citations brought down to date of the publication, 1924. The citations are to the state and federal reports, L. R. A. and the "Trinity" reports. All in all, it is a very fine, comprehensive and up-to-date publication, of great value to the busy lawyer and the student of an inquiring mind.

IVAN W GOODNER.

U. S. BOARD OF TAX APPEALS—PRACTICE AND EVIDENCE. By Charles D. Hamel. New York: Prentice-Hall, Inc., pp. lxxii, 255, 222.

Prior to the Revenue Act of 1924 there was no provision for an appeal by a taxpayer to a neutral body *before* paying his tax. The taxpayer might take the decision of the commissioner to a committee within the treasury department. But the department of which the committee was an integral part was charged with the duty of collecting taxes; it represented interests opposing those of the taxpayer. *After* paying the tax, a suit could be maintained in the federal courts; of necessity this was a tardy relief from an unjust tax.

The Revenue Act of 1924 created the United States Board of Tax Appeals. The Revenue Act of 1926 extended its jurisdiction and functions. As presently constituted, it is a quasi-judicial body of sixteen members.

It is an entity separate and distinct from the Department of Internal Revenue. Petitions concerning taxes may be brought before the tax is paid. Appeals from its decisions may be taken directly to the Court of Appeals of the District of Columbia or a convenient Circuit Court of Appeals. If a decision of the Board is in favor of the petitioning taxpayer, collection of the tax may be enjoined.

The Board is rapidly building a case law which will go far toward settling moot tax problems, and will enable the government, through the tax commissioner, and the taxpayer to determine their respective rights in advance.

Charles D. Hamel, the first chairman of the Board, has made available a timely authority on practice and evidence before the United States Board of Tax Appeals. In many important particulars the Board differs from the conventional federal court. For instance, it observes the rules of evidence recognized by the equity courts of the District of Columbia. Again, there are technical requirements incident to the presentation of tax cases which are not commonly met in general practice. Mr. Hamel has made conveniently available the forms most suitable and has in detail described the various steps to be taken.

The work begins with a brief statement of the history, purpose, and functions of the Board of Tax Appeals. A chapter is then devoted to departmental tax procedure—the conditions precedent to an appeal—and others to the jurisdiction of the Board and pleading incident to an appeal to and from the Board. The important difference between the District of Columbia equity rules and the more familiar rules of evidence are rather fully treated.

The appendices include the District of Columbia Code (1924) relating to evidence, the Rules and Practice of the Board of Tax Appeals, important forms, and the Revenue Act of 1926, annotated to show changes from the previous acts. The table of cases lists some 400 cases decided by the Board and over 1200 decided by the courts.

The work should prove of especial value to the occasional practitioner before the Board of Tax Appeals.

PAUL P. ASHLEY.