

# HARVARD LAW REVIEW

---

NOVEMBER, 1938

---

## CONTAINING ARTICLES

CORPORATE REORGANIZATIONS: CHANGES EFFECTED BY CHAPTER X OF THE BANKRUPTCY ACT . . .	<i>John Gerdes</i> . . .	1
JUDICIAL CENSORSHIP OF OBSCENE LITERATURE . . .	<i>Leo M. Alpert</i> . . .	40
THE EFFECT OF PROVISION FOR RATABLE PRO- TECTION OF DEBENTURE HOLDERS IN CASE OF SUBSEQUENT MORTGAGE . . . . .	<i>Francis W. Jacob</i> . . .	77

---

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

---

Published Monthly November to June Inclusive. Entered at Norwood Post Office as second-class matter  
\$4.50 PER ANNUM IN ADVANCE . . . . . 75 CENTS PER NUMBER  
FOREIGN SUBSCRIPTIONS, \$5.00, 85 CENTS PER NUMBER

---

Copyright, 1938, by THE HARVARD LAW REVIEW ASSOCIATION

Printed at . . . . . 161 Lenox Street, Norwood, Mass., U.S.A.  
Editorial and Executive Office . . . . . Gannett House, Cambridge, Mass., U.S.A.

# HARVARD LAW REVIEW

VOLUME LII

NOVEMBER, 1938

NUMBER I

## CONTENTS

LEADING ARTICLES	PAGE
Corporate Reorganizations: Changes Effected by Chapter X of the Bankruptcy Act . . . . . <i>John Gerdes</i> . . . . .	I
Judicial Censorship of Obscene Literature <i>Leo M. Alpert</i> . . . . .	40
The Effect of Provision for Ratable Protec- tion of Debenture Holders in Case of Subsequent Mortgage . . . . . <i>Francis W. Jacob</i> . . . . .	77
NOTES AND LEGISLATION	
Installment Land Contracts: Legislative Protection of Defaulting Purchasers . . . . .	129
Civil Aeronautics Act of 1938 . . . . .	137
Louisiana Trust Estates Act . . . . .	145
Legislative Interference with the Grand Jury . . . . .	151
RECENT CASES	
Aliens — Deportation — Membership in Communist Party not Sufficient to Warrant Deportation ( <i>Strecker v. Kessler</i> , C.C.A. 5th, 1938) . . . . .	157
Bankruptcy — Debts not Discharged — Liability of Fiduciary for Technical Misappropriation as Dischargeable in Bankruptcy ( <i>In re Hammond</i> , C. C. A. 2d, 1938) . . . . .	158
Copyrights — Nature — Transferability of Performing Rights in Nonexistent Works ( <i>Buck v. Virgo</i> , W. D. N. Y. 1938) . . . . .	159
Damages — Liquidated Damages — Clause Relating to Delay Held Applicable Where Contractor Abandons Work ( <i>Six Companies of Cal. v. Joint Highway District No. 13 of the State of Cal.</i> , N. D. Cal. 1938) . . . . .	160
Ejectment — Evidence — Common Source Rule Held Inapplicable Where Plain- tiff and Defendant Claim Separate Interests under Remote Grantor ( <i>Vance v. Pritchard</i> , N. C. 1938) . . . . .	161
Executors and Administrators — Proceedings Against — Executors Held Not Personally Liable on Extension of Mortgage ( <i>City Bank Farmers Trust Co. v. Frankenfelder</i> , N. Y. Sup. Ct. 1937) . . . . .	162
Income Taxes — Exemptions — Exemption of Income of Active Corporation Turning Over Net Profit to Charity ( <i>Roche's Beach, Inc. v. Commissioner</i> , C. C. A. 2d, 1938) . . . . .	163

Insurance — Construction of Words and Phrases — What Constitutes “Permanent Disability” ( <i>New England Mutual Life Ins. Co. v. Hurst</i> , Md. 1938)	163
Insurance — Rights of Insured — Effect of Nonforfeiture Clauses Reducing the Amount of Extended Insurance Available to Borrowers ( <i>Pressly v. Pilot Life Ins. Co.</i> , S. C. 1938)	164
Joint Tortfeasors — Contribution — Apportionment of Burden Among Several Defendants ( <i>Wold v. Grozalsky</i> , N. Y. 1938)	165
Jury — Competency of Jurors — Questioning Jurors on <i>Voir Dire</i> as to Their Connections with Insurance Company ( <i>Smithers v. Henriquez</i> , Ill. 1938)	166
Libel and Slander — Acts and Words Actionable — “Selling Below Cost” Capable of Defamatory Meaning ( <i>Meyerson v. Huribut</i> , App. D. C. 1938)	166
Libel and Slander — Publication — Limitation of Action against Newspaper Held to Run from Original Publication despite Subsequent Communication ( <i>Wolfson v. Syracuse Newspapers</i> , N. Y. App. Div. 4th Dep’t. 1938)	167
Limitation of Actions — Tolling of Statute by Absence from Jurisdiction — Effect of Involuntary Appointment by Nonresident of Agent for Process ( <i>Maguire v. Yellow Taxicab Corp.</i> , N. Y. App. Div. 1st Dep’t. 1938)	168
Parent and Child — Loss of Services — Statute of Limitations Does Not Bar Parent until Child’s Action is Barred ( <i>Pitrelli v. Cohen</i> , N. Y. Sup. Ct. 1938)	169
Recording and Registry Laws — What Constitutes Recording — Incorrect Indexing of Grantor’s Middle Initial Held Fatal ( <i>Dorman v. Goodman</i> , N. C. 1938)	170
Restraint of Trade — State Antitrust Legislation — Statute Prohibiting Ownership of Theatres by Producers or Distributors ( <i>Paramount Pictures, Inc. v. Langer</i> , D. N. D. 1938)	171
Taxation — Retaliatory Taxes — Effect of Retaliatory Tax on Foreign Insurance Companies ( <i>Occidental Life Ins. Co. v. Holmes</i> , Mont. 1938)	172
Trusts — Compensation of Trustee — Commissions Computed on Basis of Gross Rentals under Statute ( <i>Matter of Schinasi</i> , N. Y. 1938)	173
Workmen’s Compensation Acts — Construction — Employer Held Liable as Indemnitor to Negligent Third Party for Amount Greater than Compensation Award ( <i>Westchester Lighting Co. v. Westchester Co. Small Estates Corp.</i> , N. Y. 1938)	174
<b>BOOK REVIEWS</b>	
Clark: The Rise of a New Federalism	<i>David Riesman, Jr.</i> 175
Paul <i>et al.</i> : Selected Studies in Federal Taxation	<i>Helen R. Carlross</i> 177
Hanbury and Waldock: The Law of Mortgages	<i>John Hanna</i> 179
Department of Justice: Taxation of Government Bondholders and Employees	<i>Seymour J. Rubin</i> 180
Radin: The Law and Mr. Smith	<i>Hendrik Willem Van Loon</i> 182
<b>BOOK NOTES</b>	184
<b>BOOKS RECEIVED</b>	186