

# Buffalo Law Review

---

Volume 9 | Number 3

Article 1

---

4-1-1960

## Annual Index to Volume 9

Buffalo Law Review

Follow this and additional works at: <https://digitalcommons.law.buffalo.edu/buffalolawreview>

---

### Recommended Citation

Buffalo Law Review, *Annual Index to Volume 9*, 9 Buff. L. Rev. ii (1960).

Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol9/iss3/1>

This Index is brought to you for free and open access by the Law Journals at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in Buffalo Law Review by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact [lawscholar@buffalo.edu](mailto:lawscholar@buffalo.edu).

## TABLE OF AUTHORS AND REVIEWERS

ABRAHAM, GERALD. <i>A Unitary Approach to Special Proceedings: The New York Proposals</i> .....	471
COHEN, EMIL L. <i>Scope of City Home Rule in New York: Revising Ward Boundaries for Election of Supervisors Serving on County Board</i> .....	1
CRISSEY, LOIS. <i>Zeisel, Kalven &amp; Buckholz: Delay in the Court</i> .....	400
HELLERSTEIN, JEROME R. <i>Newhouse: Constitutional Uniformity &amp; Equality in State Taxation</i> .....	402
HYMAN, JACOB D. <i>Scope of City Home Rule in New York: Revising Ward Boundaries for Election of Supervisors Serving on County Board</i> .....	1
KAPLAN, BENJAMIN. <i>Civil Procedure: Reflections on the Comparison of Systems</i> ....	409
KOCHERY, DAVID R. <i>The Nonprofit Hospital &amp; the Union</i> .....	255
LAUFER, JOSEPH. <i>Marital Law in Transition: The Problem in Israel</i> .....	321
LENHOFF, ARTHUR. <i>Schlesinger: Comparative Law, Second Edition</i> .....	395
NEDRUD, DUANE R. <i>Perkins: Cases &amp; Materials on Criminal Law &amp; Procedure</i> .....	398
SPARKS, BERTEL M. <i>Policy Considerations: Alienability of the Beneficial Interest in a Trust in New York</i> .....	26
STRAUSS, GEORGE. <i>The Nonprofit Hospital &amp; the Union</i> .....	255
SUMMERS, CLYDE W. <i>Individual Rights in Collective Agreements: A Preliminary Analysis</i> .....	239
TAUBER, KURT. <i>Schlamm: Germany and the East-West Crisis: The Decisive Challenge to American Policy</i> .....	231
WARD, PETER. <i>The Uninsured Motorist: National &amp; International Protection Presently Available &amp; Comparative Problems in Substantial Similarity</i> .....	283
WEINSTEIN, JACK B. <i>Revision of Procedure: Some Problems in Class Actions</i> .....	433

## TABLE OF LEADING ARTICLES

CIVIL PROCEDURE: REFLECTIONS ON THE COMPARISON OF SYSTEMS. <i>Benjamin Kaplan</i> .....	409
INDIVIDUAL RIGHTS IN COLLECTIVE AGREEMENTS: A PRELIMINARY ANALYSIS. <i>Clyde W. Summers</i> .....	239
MARITAL LAW IN TRANSITION: THE PROBLEM IN ISRAEL. <i>Joseph Laufer</i> .....	321
NONPROFIT HOSPITAL AND THE UNION, THE. <i>David R. Kochery and George Strauss</i> ..	255
POLICY CONSIDERATIONS: ALIENABILITY OF THE BENEFICIAL INTEREST IN A TRUST IN NEW YORK. <i>Bertel M. Sparks</i> .....	26
REVISION OF PROCEDURES: SOME PROBLEMS IN CLASS ACTIONS. <i>Jack B. Weinstein</i> ...	433
SCOPE OF CITY HOME RULE IN NEW YORK: REVISING WARD BOUNDARIES FOR ELECTION OF SUPERVISORS SERVING ON COUNTY BOARD. <i>Emil L. Cohen and Jacob D. Hyman</i> ..	1
UNINSURED MOTORIST: NATIONAL AND INTERNATIONAL PROTECTION PRESENTLY AVAILABLE AND COMPARATIVE PROBLEMS IN SUBSTANTIAL SIMILARITY, THE. <i>Peter Ward</i> .....	283
UNITARY APPROACH TO SPECIAL PROCEEDINGS: THE NEW YORK PROPOSALS, A. <i>Gerald Abraham</i> .....	471

## TABLE OF BOOKS REVIEWED

NEWHOUSE: CONSTITUTIONAL UNIFORMITY AND EQUALITY IN STATE TAXATION. <i>Jerome R. Hellerstein</i> .....	402
PERKINS: CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE. <i>Duane R. Nedrud</i> ..	398
SCHLAMM: GERMANY AND THE EAST-WEST CRISIS: THE DECISIVE CHALLENGE TO AMERICAN POLICY. <i>Kurt Tauber</i> .....	231
SCHLESINGER: COMPARATIVE LAW, SECOND EDITION. <i>Arthur Lenhoff</i> .....	395
ZEISEL, KALVEN AND BUCKHOLZ: DELAY IN THE COURT. <i>Lois Crissey</i> .....	400

## TABLE OF RECENT DECISIONS\*

Ando v. Woodberry (N.Y. App. Div.) .....	373
Aquino v. Bulletin Company (Pa.) .....	362
Cauverain v. DeMetz (N.Y. Sup. Ct.) .....	370
N.L.R.B. v. Swinerton (9th Cir.) .....	355
Peo. ex rel. Santangelo v. Tutuska (N.Y. Sup. Ct.) .....	378
Peo. v. Gonzales (Mich.) .....	382
Taylor v. Central R.R. Co. of N.J. (N.Y. App. Div.) .....	390

\*Table of New York Court of Appeals cases, 1958 Term, appears at pages 237-238.

# SUBJECT INDEX

## A

### ADMINISTRATIVE LAW

Appeal of Dismissal under Feinberg Law .....	40
Authority of Civil Service Commission to Change Grading Method .....	51
Failure to Appeal from Article 78 Proceeding Prevents Further Raising of Issue ..	41
Failure to Bring Article 78 Proceeding Bars Action for Damages .....	45
Judicial Review of Child Custody Proceedings .....	37
Judicial Review of Dismissal of Police Officer .....	39
Mandamus—A Discretionary Remedy .....	42
Mandamus to Review Election Petitions .....	43
Power of Public Service Commission to Regulate Advertising in Telephone Books	52
Status of Veteran under Civil Service Law, I .....	48
Status of Veteran under Civil Service Law, II .....	49
Summary Seizure under Sanitary Code .....	50
Tolling of Statute of Limitation in Article 78 Proceeding .....	44

## B

### BOOKS RECEIVED

## C

### CIVIL PROCEDURE

Appeals of Right—Finality of Determination .....	61
A Unitary Approach to Special Proceedings: The New York Proposals .....	471
Civil Procedure: Reflections on the Comparison of Systems .....	409
Employee's Interest in Subrogated Claim can be Pleaded and Proved .....	66
Joinder of Parties under Section 290-c of Tax Law .....	55
Notice Required in Default Judgment for Support Payment Arrears .....	59
Official Records Admissible under C.P.A. Section 374-a Without Calling Entrant as Witness .....	62
Pleading Requisites to Sufficiently State Slander Action Defense .....	54
Proposed Changes in New York Civil Procedure: A Synopsis .....	494
Revision of Procedure: Some Problems in Class Actions .....	433
Sheriff's Right to Poundage under Civil Practice Act Section 687-a .....	65
Six Year Statute of Limitation Applicable to Municipal Law Section 205-a Action	57
Third Party Practice—Active and Passive Negligence .....	63

### CONTRACTS

Construction of Words of the Parties .....	72
Effect of Specific Disclaimer on Introduction of Evidence of Fraud .....	69
Material Elements of a Real Property Purchase Contract .....	74
Prerequisite Third Party Approval .....	70
Recovery of Property Involved in an Illegal Transaction .....	67
Reformation of Restrictive Covenant .....	73
Stay of Legal Proceedings Where Contract Calls for Arbitration .....	71

### CONSTITUTIONAL LAW

Coerced Confessions: Due Process Challenge .....	93
Constitutionality of Hospital Licensing Regulations .....	76
Constitutionality of Water Pollution Control Act, I .....	82
Constitutionality of Water Pollution Control Act, II .....	83
Constitutional Right to Appellate Review in Forma Pauperis .....	97
Constitutional Right to Counsel: Adjournment to Secure .....	91
Deprivation of Property: Establishing Bus Stop not a "Taking" .....	75
Gross Receipts Tax: Application to Foreign Corporation .....	79
Limitation on Expanding Scope of Legality of Searches and Seizures in Michigan	382

## BUFFALO LAW REVIEW

Retroactive Constitutional Right to Appeal .....	98
Scope of City Home Rule in New York: Revising Ward Boundaries for Election of Supervisors Serving on County Board .....	1
State Regulation of Union Officials .....	86
State Statute Punishing Wire Tapping Per Se, Not Preempted .....	88
State Taxation of Interstate Carriers .....	81
Sufficient Specification of Criminal Acts: "Loitering"; Barbiturate Prescriptions"	95
Validity of Amended Zoning Classification .....	84
Validity of Election Law Provision on Eligibility to Nominate .....	85
<b>CORPORATIONS</b>	
Action by Former Director Against Fellow Directors .....	103
Arbitration as an Incident to Winding Up .....	101
Power of Corporation President to Bring Suit on Behalf of Corporation .....	99
Valuation of Stock of Minority Stockholders .....	104
<b>CREDITORS' RIGHTS</b>	
Federal v. State Determination of Property Rights Subject to Federal Liens .....	105
Right of Redemption After Tax Sale .....	109
Sufficiency of Power of Attorney to Satisfy Bank's Duty to Depositor .....	110
Third Party Restraining Order in Supplementary Proceedings .....	107
<b>CRIMINAL LAW</b>	
Bait Advertising Under Penal Law .....	129
Civil Contempt for Refusal to Answer .....	111
Conviction for Sabbath Breaking Upheld .....	138
Coram Nobis: Defendant Must Be Apprised of Rights .....	135
Defendant Serving Indeterminate Sentence can be Sentenced to State Prison .....	131
Demurrer to a Single Count of an Indictment: People's Right to Appeal from Allowance Thereof .....	132
Derogatory Remarks of Judge in Imposing Indeterminate Sentence .....	130
Dismissal of Indictment for Lack of Prosecution .....	119
Double Jeopardy: New York "Waiver" Doctrine Survives Impact of Green Case	117
Double Jeopardy: Prosecution for Underlying Felony Following Acquittal for Felony-Murder .....	378
Effect of State Conviction Upon Recidivist Statutes .....	117
Failure of Judge to Answer Jury's Request for Further Instructions .....	136
Habeas Corpus for Irregularity in Proceedings: Presumption of Regularity .....	134
Immunity of Prospective Defendant from Grand Jury Indictment .....	120
Market Value Defined in Grand Larceny Prosecutions .....	114
People's Burden of Proving Defendant Not in the Throes of an Epileptic Attack	124
People's Right to Appeal from Dismissal of Information .....	126
Possession of Materials Used in the Policy Game .....	137
Power of Appellate Division to Review Indeterminate Sentence .....	131
Power of Grand Jury to Compel Witnesses to Complete Questionnaire .....	125
Recidivist Statutes: Single Trial for Multiple Offenses Construed as Single Conviction .....	115
Requirements for Perjury Conviction .....	122
Sufficiency of Indictment for Reckless Driving .....	137
Sufficiency of Information .....	127
<b>D</b>	
<b>DECEDENTS' ESTATES AND TRUSTS</b>	
Child en ventre sa mere not "Beneficially Interested" in Trust .....	143
Construction of Meaning of Term "Children" as Used in Testamentary Disposition	139
Determination of Undue Influence .....	146
Discretionary Power of Trustee to Invade Corpus .....	141
Granting of Counsel Fees under Section 278 of Surrogate's Court Act .....	148
Judicial Excision of Measuring Life from Trust to Avoid Rule against Perpetuities	144
Policy Considerations: Alienability of the Beneficial Interest in a Trust in New York .....	26
Withdrawal of Section 18 Election .....	147

# SUBJECT INDEX

## E

### EVIDENCE

Admission of Evidence of Crime Not Charged .....	159
Circumstantial Evidence of Operation of Motor Vehicle .....	160
Corroboration of Complaining Witness in Sex Crimes .....	155
Evidence Obtained by Wire Tapping Admissible in New York Courts .....	149
Evidence of Speeding Provided by Untested Radar Equipment .....	161
Impeachment of Witness Who Is Drug Addict .....	153
Malpractice: Basis for Expert Testimony .....	163
"Other Evidence" Required to Corroborate Complainant's Testimony in Rape Case	157
Proof of Damage to Bailed Goods .....	162
Spontaneous Declaration as Evidence: Prejudicial Statements of Prosecuting At-	
torney .....	151

## I

### INSURANCE

Agent's Liability on Promise to Continue Policy .....	166
"All Risks" Coverage Distinguished from Standard Fire Coverage .....	166
Liability Insurance—Policy Interpretation—Separability of Named and Addi-	
tional Insureds .....	165

## L

### LABOR LAW

Applicability of Contract Arbitration Clause to Another Contract .....	169
Employee's Right to Sue for Wrongful Discharge .....	168
Exclusive Hiring Halls in the Construction Industry .....	355
Individual Rights in Collective Agreements: A Preliminary Analysis .....	239
The Nonprofit Hospital and the Union .....	255

## M

### MUNICIPAL CORPORATIONS

Change of City Ward Boundaries; Effect on County Electoral System .....	175
New York Thruway Authority Held to be a Separate Entity .....	175
Property Benefited by Public Improvement .....	172
Street Closing: Judicial Review of Public Necessity .....	170

## P

### PROPERTY

Abatement of Taxes—Basis for Adjustment of Controlled Rent .....	175
Application of Decontrolling Provisions of Residential Rent Law .....	178
Basis for Maximum Controlled Rent .....	176
Dependent and Independent Covenants in a Lease .....	179
Eminent Domain—Contractual Exemption .....	186
Eminent Domain—Denial of Interest Prior to Filing of Claim .....	184
Implied Easement .....	188
Indian Lands: Jurisdiction to Determine Title .....	182

## T

### TAXATION

Extension of Mortgage: Not Subject to Mortgage Recording Tax .....	194
New York Mortgage Tax: Immunity of Contractor under Federal Housing Act..	196
Night Club Owner Employer for Unemployment Insurance Tax Purposes .....	193
Unrealized Appreciation of Assets Excluded from Earnings and Profits .....	190

*BUFFALO LAW REVIEW*

**TORTS**

Admissibility of a Plea of Guilty to a Traffic Infraction in a Civil Suit Based on Same Facts .....	373
Causation of Suicide Actionable Under New York Wrongful Death Statute .....	370
Conspiracy to Deprive Broker of Real Estate Commissions .....	205
Duty Toward Trespassers: Objective Test .....	207
Manner of Publication Determinative of Action for Invasion of Privacy .....	362
Municipal Liability for Failure to Provide Police Protection .....	203
Sufficiency of Libel Complaint .....	202
The Uninsured Motorist: National and International Protection Presently Available and Comparative Problems in Substantial Similarity .....	283
Unfair Competition—Injunction for Bait Advertising .....	197

**W**

**WORKMEN'S COMPENSATION**

Apportionment of Cost of Operation Among Six Injuries .....	210
Compensation Award Following Second Industrial Disability .....	211
Coronary Thrombosis as Basis of Claim .....	209
Necessary Status for Coverage Under the Jones Act .....	390
Prerequisites to Indemnity under Longshoremen's and Harbor Worker's Act ...	214
Reopening of Previously Denied Claim .....	213
State Retirement System: Finality of Comptroller's Determination of Nature of Accident .....	217
Sufficiency of Causal Relationship between Accident and Death .....	207

**M**

**MISCELLANEOUS**

Application of Estoppel to Foreign Judgment .....	223
Arbitration: Specific Enforcement of Employment Contract .....	219
Liability of Stepparent for Support under New York City Domestic Relations Court Act .....	224
Marital Law in Transition: The Problem of Israel .....	321
Patent Rights Awarded to Employee Absent a Contrary Agreement or Custom .....	224
Power of Appellate Division to Control Attorney's Contingent Fees .....	225
State Not Liable for Negligence of Doctor Examining Prize Fighter .....	221