



5-1-1957

# Lawyer Presents

Notre Dame Law School Editors

Follow this and additional works at: <http://scholarship.law.nd.edu/ndlr>



Part of the [Law Commons](#)

---

## Recommended Citation

Notre Dame Law School Editors, *Lawyer Presents*, 32 Notre Dame L. Rev. 365 (1957).

Available at: <http://scholarship.law.nd.edu/ndlr/vol32/iss3/1>

This Introduction is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Notre Dame Law Review by an authorized administrator of NDLScholarship. For more information, please contact [lawdr@nd.edu](mailto:lawdr@nd.edu).

## THE LAWYER PRESENTS —

Although the basic idea of comprehensive zoning has been long established in the constitutional power of a municipality, refinements of the zoning principle are cropping up in swift succession as city planning commissions strive to keep abreast of sociological problems created by the urban movement. One of the most important of such refinements is the concept of extraterritorial zoning, municipal establishment of zoning restrictions beyond the territorial limits of the municipality. The absence of court decisions on the constitutionality of extraterritorial zoning is interpreted by some to indicate that no real difficulty exists other than seeing that the legislature has granted extraterritorial authority to the municipality; others, however, interpret it as the prelude to a constitutional battle of donnybrook proportions. *Extraterritorial Zoning: Reflections on its Validity* is a predictive evaluation of the pros and cons of the constitutional issue which Professor Louis F. Bartelt, Jr., believes must soon claim the attention of our courts. On the question of the constitutionality of extraterritorial zoning as such, Professor Bartelt finds no great difficulty in arriving at an affirmative conclusion. The extent to which a municipality may constitutionally carry on such zoning poses a thornier problem, however, and he concludes that proper solution of it will require new criteria of reasonableness in finding that a given extraterritorial zoning ordinance bears a reasonable and substantial relation to public health, safety, morals, or general welfare. The author is a graduate of the School of Law, Valparaiso University, studied as a Sterling Fellow at Yale Law School, 1953-54, where he received the LL.M. in 1954, and presently is an associate professor of law at the School of Law, Valparaiso University.

Mr. Allan F. Ayers, Jr., a partner in the New York firm of Hodges, Reavis, McGrath & Downey, and Mr. Peter J. Repetti, an associate of the same firm, contribute an article entitled *Boot Distribution Under the '54 Tax Code*. The 1954 Revenue Act obviously has not been a panacea for all tax difficulties, and several recent developments in the law of boot distributions indicate increasing conflict in fringe areas of that phase of the tax law. These fringe problems are highlighted in the course of the co-authors' analysis, which includes study of the corporate readjustments which qualify as section 368 (a) reorganizations, the boot consequences of reorganization receipt of debentures and of bonds having accrued interest, the dividend treatment of boot, and the receipt of boot under various sections of the Code. Each

of the co-authors is a graduate of the Harvard Law School. In addition, Mr. Repetti received his A.B. from Notre Dame in 1939. Mr. Ayers is the author of *Taxation of Partnerships*, published by Prentice Hall as part of the Tax Ideas Service, and both of the authors have contributed to various proceedings of the Institute on Federal Taxation sponsored by the New York University Law School.

The thesis of *Unfair Competition as an Aid to Equity in Patent, Copyright and Trade-Mark Cases*, by Judge Leon R. Yankwich, is that a court may utilize the flexible remedies available under the doctrine of unfair competition to grant relief in patent, copyright and trade-mark litigation in order to achieve substantial justice when ordinary legal remedies in such cases cannot be applied. No matter why the normal legal remedies are not available to secure the plaintiff's interest—e.g., failure to apply for a copyright, inability to meet the requirements for obtaining a trade-mark, expiration of a patent—the plaintiff's position may be such that he still is entitled to some protection, and there is judicial precedent for giving him relief in equity. In the copyright field, logical extension of such a doctrine approaches the European principle of *droit moral*, recognition of a moral right of an author, artist, and creator to the integrity of his work. The author is Chief Judge of the United States District Court for the Southern District of California. He has written several books, including COMMENTARY ON NEW FEDERAL CRIMINAL RULES (1946), IT'S LIBEL OR CONTEMPT IF YOU PRINT IT (1950), and THE NATURE OF OUR FREEDOM (1951), and he is a contributor to many law reviews. Previous articles by Judge Yankwich in the *Notre Dame Lawyer* were *The Right of Privacy: Its Development, Scope and Limitations*, 27 NOTRE DAME LAW. 499 (1952), and *Private Libel or Public Exhortation*, 30 NOTRE DAME LAW. 245 (1955).

The *Lawyer* wishes to correct an omission that occurred in the March, 1957, issue when the printer, a much harried fellow, neglected to include the last footnote to Judge Charles Fahy's review of Justice William O. Douglas' book, *WE THE JUDGES*, 32 NOTRE DAME LAW. 353. The footnote would have informed our readers that Judge Fahy is a Circuit Judge with the United States Court of Appeals for the District of Columbia Circuit.