Florida Law Review

Volume 3 | Issue 3

October 1950

Supreme Court Practice (Robert L. Stern & Eugene Gressman, 1950)

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book; one does get to know better some men well worth knowing, and
is apt to acquire a high regard and personal affection for Chief
Justice Fuller.

STANLEY MILLEDGE

Circuit Judge,

Eleventh Judicial Circuit of Florida

SUPREME COURT PRACTICE. By Robert L. Stern and Eugene Gressman.
553, table of cases and index. $7.50.

This is the first work devoted to describing in detail the practice
and procedure in the Supreme Court of the United States to appear in
over twenty years. As such it fills a genuine need, for in recent times
the governing statutes, the Court’s own rules, and the unwritten
practices have been materially altered.

In this book the authors take you by the hand and conduct you on
a detailed tour of the Olympian operations which are carried on and
housed in the magnificent, gleaming, white marble palace in Wash-
ington where sits the Supreme Court of the United States. They bring,
as it were, the Supreme Court to you, which is no mean accomplish-
ment, for the Court, like Mahomet’s mountain, requires us to come to
it. Most lawyers may never have occasion to invoke the Supreme
Court’s jurisdiction; if they do, without benefit of previous experience
or of skilled collaboration, the whole process usually appears to them
to be somewhat mysterious and terrifying. With Supreme Court Prac-
tice as a guide, the mystery is dispelled and the terror abated. Awe
remains, as it should in relations with this august tribunal. (No one
should aspire to familiarity with the Supreme Court; not only is it in
vain but a school child may tell what it breeds).

“The object of this book is to tell lawyers what they will need to
know in order to handle a case in the United States Supreme Court”
(p. 1). It achieves this objective well. It is not, nor is it intended to be,
exhaustive in its treatment of Supreme Court jurisdiction and pro-
cedure; but its considerable detail and practical approach will prob-
ably prove adequate for most purposes. And, as the authors say, “If a
difficult problem arises, the authorities cited will serve as leads to
further research” (p. 1).
The chapter on the exercise of certiorari jurisdiction alone should insure the value of this volume to the busy general practitioner. It is perhaps too much to hope that its use might also serve to temper the zeal of the "eager beaver" of the bar who leaps to invoke the jurisdiction of the Supreme Court on behalf of his client in cases in which the state court has passed upon the assertion of a right, title, privilege, or immunity under federal law, without due regard to the lack of novelty or importance of the principles involved. Cases of this kind are concerned primarily with the construction and application of the commerce clause, the full faith and credit clause, and the Fourteenth Amendment; and the authors tell us that these cases constitute by far the most frequently exercised segment of the Supreme Court's appellate jurisdiction. Some lawyers appear to proceed on the theory that litigants are automatically entitled to review by the Supreme Court of the decisions of state courts of last resort in cases dealing with these portions of the Federal Constitution.

"It is important for the bar to be familiar with the factors which are treated by the Court as appropriate grounds for the granting of petitions for writs of certiorari. These factors apparently are not fully appreciated, for year in and year out about 80-85% of the petitions for certiorari are denied" (p. 97).

As Chief Justice Vinson noted in 1949 (quoted on p. 98):

"The debates in the Constitutional Convention make clear that the purpose of the establishment of one supreme national tribunal was, in the words of John Rutledge of South Carolina, 'to secure the national rights and uniformity of Judgmts [sic]' . The function of the Supreme Court is, therefore, to resolve conflicts of opinion on federal questions that have arisen among lower courts, to pass upon questions of wide import under the Constitution, laws, and treaties of the United States, and to exercise supervisory power over lower federal courts. . . . Those of you whose petitions for certiorari are granted by the Supreme Court will know, therefore, that you are, in a sense, prosecuting or defending class actions; that you represent not only your clients, but tremendously important principles, upon which are based the plans, hopes, and aspirations of a great many people throughout the country."

There is a good and detailed table of contents, which is itself an
outline of the subject-matter. The Rules of the Supreme Court with index, pertinent federal statutes, Rules of Civil and Criminal Procedure, and Rules of the Court of Claims are included. The book also contains a comprehensive collection of forms with index.

This reviewer was privileged to be associated with one of the authors, Mr. Stern, for several years in the service of the United States Department of Justice and holds him in high regard as a friend, a scholar and a gentleman.

Frank H. Elmore, Jr.
Member of Jacksonville, Florida, Bar

Books Noted


All of the above are publications of the Committee on Continuing Legal Education of the American Law Institute, collaborating with the American Bar Association. They may be purchased from the Director of the Committee, 133 South 36th St., Philadelphia 4, Pa.

These little paper-bound volumes were designed to implement the lectures sponsored by the American Law Institute. The emphasis is on practical information. There is a minimum of annotation and no indexing, but the tables of contents are adequate. Other monographs will be added to the series at the rate of six per year.

The second series will include Procedure before the Bureau of Internal Revenue, Organizational Problems of Small Businesses, Bankruptcy and Arrangement Proceedings, The Federal Wage & Hour Act, Pre-Trial Practice, The Drafting of Corporate Instruments.