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NOTES

LAW REVIEWS APPROVED*

The approval given to law review articles by former Chief Justice Hughes, as published in our issue of July, 1941,¹ is reiterated in remarks by Associate

*Reprint from: Journal of the National Association of Referees in Bankruptcy, July, 1942, vol. 16, p. 129.

¹p. 135.

Justice Wiley Rutledge, of the U. S. Court of Appeals for the District of Columbia in an address before the Bar Association of the District, in which he said, in part:²

"I suggest now quite seriously the more frequent and general citation of law review materials. By this I mean the notes and comments as well as the leading articles . . .

"When material pertinent to your problem can be found, and it will seldom be lacking now, the legal periodicals have several distinct advantages, and I mean for citation in the brief for the purpose of winning on appeal.

"First, if a leading article or a good note or comment is in point on your case, or on an issue it presents, it will cite more pertinent cases than the average busy lawyer is likely to find through the digest or Corpus Juris. Its strictly authoritative value is first-rate. But this presupposes you cite periodical material with the same discrimination you do cases; in other words, it is the articles in point, or closely so, which are helpful. For your assistance in locating them, the Index to Legal Periodicals is available.

"Again, an article or comment in point does something more than any single case can do. A case is an incident in the history of a principle or principles. It indicates, but it does not define or comprehend the trend. It is merely a link in a chain. A good article gives one, in addition to good citations, the history of an idea, the background of an institution, the evolution of a principle, and lines of discrimination for its application. In a recent case in which case authority was scarce, and involving difficult questions of administrative law and procedure, I found more help in about three law review articles than in all the case law and the statutes. They gave me the legislative history of the agency and the administrative history of its functioning. These I could not have secured from the strictly authoritative materials. Nor could I have secured them otherwise than as I did without weeks of investigation which I did not have to give to it and perhaps would not have felt free to make had time been available.

"Finally, though other advantages might be mentioned, law review materials, especially leading articles and notes, give superior analysis of problems and discussion of their legal disposition on principle. . . . the college-boy lawyers are showing, and show us every day, briefs and oral arguments as able as any we read and hear. Prejudiced as I may be in their favor, I commend their product for your favorable consideration and use. It will help you win cases if you learn, first to respect and then how to use it."

²*Dicta*, Denver Bar Ass'n, May '42, Vol. 19, p. 109, 118.