



---

Spring 3-1-1966

## A Handbook Of Federal Habeas Corpus. Ronald P. Sokol.

Follow this and additional works at: <https://scholarlycommons.law.wlu.edu/wlulr>



Part of the [Civil Procedure Commons](#), and the [Constitutional Law Commons](#)

---

### Recommended Citation

*A Handbook Of Federal Habeas Corpus. Ronald P. Sokol.*, 23 Wash. & Lee L. Rev. 197 (1966).

Available at: <https://scholarlycommons.law.wlu.edu/wlulr/vol23/iss1/23>

This Book Review is brought to you for free and open access by the Washington and Lee Law Review at Washington and Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Washington and Lee Law Review by an authorized editor of Washington and Lee University School of Law Scholarly Commons. For more information, please contact [christensena@wlu.edu](mailto:christensena@wlu.edu).

the bench. Repeated encounters with some of the cases involved in this litigation sparked Mr. Kroninger's curiosity as to what actually occurred during these proceedings. His publisher says his purpose in writing *Sarah & the Senator* was to satisfy this curiosity and "to illustrate the vitality of the law for the general reader, to give an exposition of legal tools and principles through an entertaining and understandable, yet faithful rendition of actual lawsuits." (back fly leaf) Mr. Kroninger begins the development of the story slowly, orienting the general reader who is unfamiliar with litigation. He then carefully and clearly traces the development of the two main cases and the multitude of cases which they inspired, always being careful to avoid becoming mired in unnecessary detail. The result is a book with courtroom drama at its best.

The author did an extensive amount of research, not only in reported court decisions and trial records, but also in newspaper accounts of the trial and related events. As a result of this research, Mr. Kroninger gives the reader a vivid portrayal of the personalities involved and of San Francisco during bonanza times. He does not attempt to supply intentions or motives, but through the historical and biographical backgrounds given he allows the reader to understand what actually went on at the trials. For example, the judge's decision in favor of the Senator is more understandable when the reader realizes that this judge is the same one Sarah had attempted to have impeached by petitioning the state legislature.<sup>7</sup>

*Sarah & the Senator* provides the reader with interesting insight into law in operation and with an excellent illustration of how the rich may, through free-wheeling litigiousness, entangle the courts for many years. This book is not a book of the law but is rather a book of *how* the law may operate.

ROBERT H. POWELL, III

A HANDBOOK OF FEDERAL HABEAS CORPUS. Ronald P. Sokol.  
Charlottesville: The Michie Company, 1965. 251 pp., \$10.00.

The last American book solely about habeas corpus, that Great Writ which grants immediate release from unlawful detention, was published in 1886. Now Ronald P. Sokol has written what he describes as a nonscholarly manual for lawyers and judges, which pro-

---

<sup>7</sup>See *Sharon v. Hill*, 26 Fed. 337 (C.C. Cal. 1885), discussed in Chapter XV, at 180-88.

vides, as nearly as possible, all that is presently necessary for a federal habeas corpus proceeding—and such proceedings are, as is well-known increasingly numerous. The author's approach is a step-by-step explanation of habeas corpus; a lawyer is led in almost child-like fashion through a well-documented presentation of the stages and problems of a habeas corpus proceeding. Each statement is well documented with case authority and a complete table of contents provides speedy reference to particular problems.

Mr. Sokol begins by discussing various unlawful detentions for which habeas corpus will lie, how to file, including the proper court, proper procedure, and proper parties. He then moves to the limitations on the availability of the writ; for example, the exhaustion of state remedies doctrine, and successive petitions involving no new ground for relief. Since habeas corpus proceedings are frequently in *forma pauperis*, another section is devoted to the indigent petitioner and in *forma pauperis* proceedings, including the affidavit of poverty. He also discusses the right to court-appointed counsel in a habeas corpus proceeding.

Perhaps the most useful part of the book is the Appendix. It contains the federal statutes applicable to in *forma pauperis* proceedings and the writ of habeas corpus and the alternative in the federal system, the "Section 2255 Motion to Vacate Sentence."<sup>1</sup> Also included are the Federal Rules of Civil Procedure governing Appeals (Rules 73-76).<sup>2</sup> The Appendix also contains samples of all needed forms for various motions and procedures.

The author urges that the habeas corpus proceeding be flexible and that it adjudicate all matters, not only all grounds set forth in the petition, but all possible grounds for subsequent petitions. This is time consuming, but if court and counsel undertake to explore fully all discernible bases for petitioning, time will ultimately be saved. Mr. Sokol thinks that any doubt should always be decided in favor of the petitioner.

---

<sup>1</sup>28 U.S.C. § 2255 (1964). "A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence."

<sup>2</sup>It should be noted that the current "Preliminary Draft of Proposed Federal Rules of Appellate Procedure" deals extensively with the rules governing in *forma pauperis* and habeas corpus proceedings. See 34 F.R.D. 263, 295 (1964). These proposed rules are mentioned in the text but are not set out in the Appendix.

Mr. Sokol's seemingly pro-petitioner orientation is probably the product of his experience in the field; he is the Director of the Appellate Legal Aid Program at the University of Virginia and has argued many habeas corpus petitions in the Fourth Circuit. And he properly cannot forget that in each habeas corpus proceeding a man's physical liberty is at stake.

SAMUEL W. COLEMAN, III

#### THE COURTS, THE PUBLIC AND THE LAW EXPLOSION.

Harry W. Jones, Ed. New York: Prentice-Hall, Inc., 1965. 177 pp., \$1.95.

One of the most acute problems in our judicial system in recent years is the flood of litigation in our courts resulting in an indeterminate delay in the final determination of controversy.\* "Interminable and unjustifiable delays in our courts are today compromising the basic and legal rights of countless thousands of Americans and, imperceptibly corroding the very foundations of constitutional government in the United States." (p. 31). This modern dilemma is the subject of a study by the American Assembly Program of Columbia University. The findings of that body have been accumulated in a series of six essays, written by a select group of legal scholars and edited by Harry W. Jones, Cardozo Professor of Jurisprudence, Columbia University.

The theme of the presentation suggests that our traditional procedural and administrative rules are inadequate in coping with this increase, and that new solutions must therefore be found. Individual articles are presented, each dealing with a significant area of the judicial process. The appellate courts and procedure, the criminal and civil courts, and the role and qualifications of trial judges, are each the subject of individual essays. In each of these areas the increasing burden upon our court system is clearly illustrated.

Of particular interest is the essay dealing with the general topic, "Court Congestion." The author, Maurice Rosenberg, presents a comprehensive analysis of the many procedural devices that have been tried or suggested to reduce the congestion in the trial courts. The causes of this delay are surveyed and remedial measures considered. One corrective approach is the proposal for split trials in negligence

---

\*Illustrative of the present problem is the recent release by the Director of the Administrative Office of the U.S. Courts indicating that cases pending in the U.S. courts of appeals and district courts mounted to an all-time high in 1965. 51 A.B.A.J. 1026 (1965).