



UNC  
SCHOOL OF LAW

## NORTH CAROLINA LAW REVIEW

---

Volume 9 | Number 2

Article 6

---

2-1-1931

### Book Reviews

North Carolina Law Review

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

---

#### Recommended Citation

North Carolina Law Review, *Book Reviews*, 9 N.C. L. REV. 231 (1931).

Available at: <http://scholarship.law.unc.edu/nclr/vol9/iss2/6>

This Book Review is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact [law\\_repository@unc.edu](mailto:law_repository@unc.edu).

A failure to differentiate between vendor-covenants and the employee-covenants may lead to unjustifiable results whenever a case presents a fact situation where the employee had neither become associated in the public mind with the employer's good will, nor acquired knowledge of trade or business secrets.<sup>15</sup>

WILLIAM T. COVINGTON, JR.

## BOOK REVIEWS

*Handbook of the Law of Insurance*, by William R. Vance. 2nd ed. St. Paul, Minn.: West Publishing Co., 1930. Pp. 1104.

The author was formerly a teacher of law at Washington and Lee University and is now a professor of law at Yale University. The first edition was published in 1904. The present edition is about twice the size of the former, both the text and citations having been practically doubled. This increase is largely due to "many significant changes" that have taken place in the business of insurance and "marked developments" that have occurred in the rules of law, made both by the courts and the legislatures. The purpose of the book, as stated by the author, is to consider as fully as possible within the limitations of a one-volume treatise, all the important legal problems that arise in the conduct of the business of insurance, to set them upon their proper background of business management and economic function, and to search out the basic principles that govern judicial action in solving them.

The preparation of a worthwhile "Hornbook" is a difficult task which the author has accomplished without sacrificing for brevity any of the fundamental rules of insurance law. Professor Vance has a rare faculty for anticipating and satisfying in a few words almost every question which the head note is calculated to stir up. Fully

<sup>15</sup>The hardship of enforcing employee-covenants would fall particularly on those earning their livelihood by menial services. A tendency of the Ohio courts not to enforce even vendor-covenants where the exercise of a menial employment is restricted is observed in the following cases: *Schroder v. Schultz*, 16 C. C. (N. S.) 303 (Cuyahoga Co. 1908) (vendor of wagon and team covenanted not to start in express or moving business within two miles of a certain street corner for five years); *Queen City Cleaning Co. v. Davis*, 37 Ohio Circuits, 474 (Ham. App. 1916) (vendor of window cleaning company covenanted not to engage in the same business in the city of Cincinnati for 10 years); *Lichtenstein v. Silverman*, 28 O. C. A. 126 (Franklin App. 1914) (D on discontinuing partnership with P covenanted he would not engage in the cleaning business. Evidence showed that he had been working with a ladder and pail, but had not solicited P's customers.)

one-third of the book is taken up with citations of representative cases and comments thereon. The book is primarily for the use of students. It is also a book which a busy practicing lawyer may well include in his general reading of fundamental subjects of legal interest. It is an interesting and readable book that could be read profitably by every insurance agent as well. Insurance is usually bought upon the reputation of the agent or company or both and an agent should be informed as to the law and his duties with respect thereto. An insurance policy is a "fixed" article; it is not a matter of mutual negotiations but the acceptance of a form prescribed by the insurer. The insured may "adhere" if he chooses but he cannot change.

There are seventeen chapters, a brief appendix of a few standard forms, and a table of cases. The chapters are discussed under the following heads: Historical and introductory; the quality and scope of the contract; parties; insurable interests; the making of the contract; the consideration—premiums and assessments; devices for ascertaining and controlling risk and loss, including concealment, representations, warranties, conditions and exceptions; insurance agents and their policies; waiver and estoppel; rights under life policies—the beneficiary; other rights under insurance policies; the standard fire policy; construction of the life policy; marine insurance; accident insurance; and other special forms of insurance.

The author devotes two chapters to the standard fire policy and ably discusses this in most of its aspects. His discussion of representations and warranties is thorough and the distinction he draws between the two is well done. An immaterial representation, made by the policy a warranty, should not be permitted to defeat recovery and a great many states have remedied this by statute. Waiver and estoppel are discussed at length, the author outlining in detail a number of cases and drawing the distinctions arising. He merely refers to Workmen's Compensation Acts and automobile insurance. However, in view of the enormous increase of both and the problems arising therefrom, he might well have included a discussion of these subjects with added value to his work.

One of the main things that impresses the reader is the marked changes made in the insurance law by statutory enactment. Most of the insurance companies are highly reputable and trustworthy but a few have tried to take advantage of the public by means of nice

technicalities which makes it necessary that laws be passed to prevent miscarriage of justice, and, as a consequence, most of the states have enacted laws requiring certain stipulations in policies and in their absence reading them therein as a matter of law.

The book, on the whole, is well balanced, accurate and comprehensive, is readable and interesting, not only to the law student, but to the general practitioner and the layman interested in insurance.

FRED S. HUTCHINS.

Winston-Salem, N. C.

*Progress of the Law in the U. S. Supreme Court 1929-1930*, by Gregory Hankin and Charlotte A. Hankin. Legal Research Service, Washington, D. C., 1930. Pp. XIII, 483.

This volume is appropriately dedicated to Chief Justice Taft, The Great Administrator of the Supreme Court. The first chapter discusses the changes which occurred in the personnel of the Court during the period covered by the book. The death of Chief Justice Taft led to the appointment of Chief Justice Hughes. The death of Associate Justice Sanford led to the nomination of Judge Parker. The Senate's refusal to confirm his nomination was followed by the nomination and appointment of Associate Justice Roberts. An appraisal of the work of Chief Justice Taft is included, with particular emphasis upon his successful efforts to reorganize the business of the Supreme Court and of the federal court system.

The analysis of the factors which entered into the rejection of Judge Parker's nomination is discriminating. In the course of argument in the Senate over Chief Justice Hughes' appointment, the authors find three qualifications which a nominee to this highest judicial office should possess: (1) he must be a great lawyer, (2) he must have a scope of vision in matters outside of the law—a wide knowledge of extra legal facts and (3) he should have the ability to correlate the law to economic, social and political problems, so that the law may keep pace with the needs of a progressive society. The objection to Mr. Hughes was on the third point, as he was deemed to be a strong conservative. Yet his record to date leans in the liberal direction. The opponents of Judge Parker picked out his decision in the Red Jacket Case<sup>1</sup> but were not concerned with his other decisions,

<sup>1</sup>International Organization v. Red Jacket C. C. & C. Co., 18 F. (2d) 839 (C. C. A. 4th, 1927).

about 135 in all, in some of which he showed marked independence and liberality. The Lake Cargo Cases<sup>2</sup> is a very important decision of Judge Parker's, which was not mentioned in the debates in the Senate, probably because of its technical difficulties, although the problem was strictly economic. In this case, Judge Parker was not bound by decisions of the Supreme Court, as in the Red Jacket Case.

The volume is full of interesting discussions which fall under such functional topics as Railroad Problems, Public Utilities, Insurance, Banks and Banking, Taxation, Labor Problems, Trade Regulation, Prohibition, Political Problems, etc. This grouping of cases according to their social, economic and political bearings is distinctly advantageous for the reader. While the book gives the viewpoint of the authors, it evaluates the cases in their practical operation as policy determining factors. The reader may turn to the original reports to satisfy himself, but he will do so with the stimulation of the authors' ideas which may be accepted or rejected when he reaches a final conclusion about the case in question.

The authors' arrangement is the best way to give the reader a comprehensive view of the work of the Supreme Court in any period. The book is written in a clear, narrative manner, and the interested layman, as well as the lawyer, would profit by reading it.

R. H. WETTACH.

Chapel Hill, N. C.

*The Third Degree*, by Emanuel H. Levine. New York: The Vanguard Press. 1930. Pp. 248. \$2.00.

For about twenty-five years prior to the publication of his book, "The Third Degree," Mr. Levine was a police reporter on a New York City paper. He seems to have had the complete confidence of the police department and if his account is true he was present, on occasions almost without number, when the police administered the Third Degree.

The inside machinery of the police department is described in detail, reflecting little credit on the ability and perhaps less on the honesty of its personnel. Numerous cases are narrated in which the police have practiced refinements in cruelty; now placing the victim in a dentist's chair, grinding away his sound teeth, again beating him into insensibility for the purpose of refreshing his recollection if he happened to be hazy of memory or otherwise not inclined to talk.

<sup>2</sup> Anchor Coal Co. v. United States, 25 F. (2d) 462 (S. D. W. Va., 1928).

The prosecuting attorneys and the judges of the criminal courts are charged, in many instances, with encouraging the administration of the Third Degree. It seems that only political pull and influence will save a prisoner from making a confession implicating not only himself but also others of his ring. The administration of the criminal law is given a severe jolt. The author allows jurors, prosecuting attorneys, and judges to escape with their lives but with little else to speak of.

The reformer can find much in the two hundred and forty-eight pages of *The Third Degree* to worry about. But to the country lawyer, whose experience has led him to believe that the criminal law in the main is administered honestly and impartially, the book borders on the incredible. On the whole, it is a readable book and its careful perusal will convince the reader that the author knows his policeman, his prosecuting attorney, and his judge.

C. W. HIGGINS.

Sparta, N. C.

*A Survey of the Law Concerning Dead Human Bodies*, by George H. Weinmann, Bulletin number 73, The National Research Council of The National Academy of Sciences, Washington, D. C., 1929. Pp. 197. \$2.00.

The National Academy of Science begins its *Survey of the Law Concerning Dead Human Bodies* by inquiring of the courts, "What is a dead body?" and then asking, "Who is entitled to its custody?" Having ascertained these two facts it travels with the deceased in forty-eight states through the coroner's inquest and autopsy, inquires into the regulations concerning its disposition, and is there to defend the sanctity of the tomb when exhumation is threatened.

This is a very interesting, compact, and helpful survey. As it says, "The expressions 'dead body' and 'corpse' are really synonymous." One would think that that should end the matter. However, are "a lot of bones bleached by time" and washed up by the waters of a creek, a "dead body"? Are stillborn children, dead limbs or portions of a body removed during the lifetime of a person "dead bodies"?

In case of dispute, who is entitled to the custody of a body? May a person dispose of his body by will? Who can give consent for an autopsy? All these questions, and many more, the survey answers.