



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 37 | Number 1

Article 4

12-1-1958

Cases Commented On

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, *Cases Commented On*, 37 N.C. L. REV. (1958).

Available at: <http://scholarship.law.unc.edu/nclr/vol37/iss1/4>

This Front Matter 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 editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

CASES COMMENTED ON

The page number for a case treated in Notes and Comments refers to the page on which the Note commences. The page number for a case covered in the Annual Case Survey is indicated by an asterisk (*) and refers to the page where the case appears.

	PAGE
Abernathy v. Nichols, 249 N.C. 70, 105 S.E.2d 211 (1958).....	*472
Adams v. Board of Educ., 248 N.C. 506, 103 S.E.2d 854 (1958).....	*373, *459
Allison v. Sharp, 206 N.C. 477, 184 S.E. 27 (1936).....	*396
American Equitable Assur. Co. v. Gold, 249 N.C. 461, 106 S.E.2d 875 (1959).....	*426, *441, *454
Andrews v. Lovejoy, 247 N.C. 554, 101 S.E.2d 395 (1958).....	*443
Application of the People of the State of New York, 100 So.2d 149 (Fla. 1958) ..	77
Armentrout v. Hughes, 247 N.C. 631, 101 S.E.2d 793 (1958).....	*419
Armstrong v. Aetna Ins. Co., 249 N.C. 352, 106 S.E.2d 515 (1959).....	*472
Auto Fin. Co. v. Simmons, 247 N.C. 724, 102 S.E.2d 119 (1958)....	*385, *408, *468
Basnight v. Basnight, 242 N.C. 645, 89 S.E.2d 259 (1955).....	*425
Batts v. Batts, 248 N.C. 243, 102 S.E.2d 862 (1958).....	*387, *388
Beatty v. International Ass'n of Asbestos Workers, 249 N.C. 454, 106 S.E.2d 704 (1959).....	*399, *464
Beaty v. Sheet Metal Workers, 248 N.C. 176, 102 S.E.2d 767 (1958).....	*438
Bell v. Hankins, 249 N.C. 199, 105 S.E.2d 642 (1958).....	*457, *470
Bell v. Lacey, 248 N.C. 703, 104 S.E. 833 (1958).....	*393
Benanti v. United States, 355 U.S. 96 (1957).....	88
Bennett v. Cain, 248 N.C. 428, 103 S.E.2d 510 (1958).....	*422
Bivins v. Southern R.R., 247 N.C. 711, 102 S.E.2d 128 (1958).....	*377
Bizzell v. Bizzell, 247 N.C. 590, 101 S.E.2d 668 (1958).....	*404
Board of Pharmacy v. Lane, 248 N.C. 134, 102 S.E.2d 832 (1958).....	*372, *429
Bonn v. Summers, 249 N.C. 357, 106 S.E.2d 470 (1959).....	*406
Brice v. Robertson House Moving, Wrecking, and Salvage Co., 249 N.C. 74, 105 S.E.2d 439 (1958).....	*373, *377
Britt v. The Baptist Children's Homes, 249 N.C. 409, 106 S.E.2d 474 (1958) ..	*394
Bryant v. Atlantic Coast Line R.R., 248 N.C. 43, 102 S.E.2d 393 (1958)....	*391
Caldlaw, Inc. v. Caldwell, 248 N.C. 235, 102 S.E.2d 829 (1958).....	*379
Caldwell v. Bradford, 248 N.C. 48, 102 S.E.2d 399 (1958).....	*447
Carpenter v. Carpenter, 244 N.C. 286, 93 S.E.2d 617 (1956).....	*473
Carrow v. Davis, 248 N.C. 740, 105 S.E.2d 60 (1958).....	*441
Carrow v. Weston, 247 N.C. 735, 102 S.E.2d 134 (1958).....	*448
Carter v. Greensboro, 249 N.C. 328, 106 S.E.2d 564 (1959).....	*439
Caudil v. McNeil, 249 N.C. 376, 106 S.E.2d 475 (1959).....	*444
Caudle v. Swanson, 248 N.C. 249, 103 S.E.2d 357 (1958).....	170, *422
Church of God of The Union Assembly v. Carmical, 104 S.E.2d 912 (Ga. 1958) 198	
City of Hendersonville v. Salvation Army, 248 N.C. 52, 102 S.E.2d 416 (1958) *394	
City of Winston-Salem v. Wells, 249 N.C. 148, 105 S.E.2d 435 (1958).....	*421
Clark v. Pilot Freight Carriers, Inc., 247 N.C. 705, 102 S.E.2d 252 (1958) ..	*393
Cleeland v. Cleeland, 249 N.C. 16, 105 S.E.2d 114 (1958).....	*467
Clinard v. Town of Kernersville, 215 N.C. 745, 3 S.E.2d 267 (1939).....	*420
Cockman v. Powers, 248 N.C. 403, 103 S.E.2d 710 (1958).....	*455
Coffey v. Greer, 249 N.C. 256, 106 S.E.2d 209 (1958).....	*444
Collopy v. Newark Eye and Ear Infirmary, 27 N.J. 29, 141 A.2d 273 (Sup. Ct. 1958).....	209
Complete Auto Transit, Inc. v. Floyd, 104 S.E.2d 208 (Ga. 1958).....	82
Cooper v. Aaron, 358 U.S. 1 (1958).....	177
Cordell v. Grove Stone & Sand Co., 247 N.C. 688, 102 S.E.2d 138 (1958)....	*430
Crossland-Cullen Co. v. Crosland, 249 N.C. 167, 105 S.E.2d 655 (1958).....	*470
Currin v. Williams, 248 N.C. 32, 102 S.E.2d 455 (1958).....	215, *458
Davis v. Griffin, 249 N.C. 26, 105 S.E.2d 119 (1958).....	*447
Davis v. Sanford Constr. Co., 249 N.C. 129, 105 S.E.2d 425 (1958).....	*374
DeBruhl v. State Highway and Public Works Comm'n., 247 N.C. 671, 102 S.E.2d 229 (1958).....	*398, *421
Dixon v. Dixon, 248 N.C. 239, 102 S.E.2d 865 (1958).....	*390
East Carolina Lumber Co. v. West, 247 N.C. 699, 102 S.E.2d 248 (1958).....	*466
Eastern Tennessee & W.N.C. Transp. Co. v. Currie, 248 N.C. 560, 104 S.E.2d 403 (1958).....	*400, *453

	PAGE
Edwards v. Jenkins, 247 N.C. 565, 101 S.E.2d 410 (1957).....	*387, *389, *429
Erlanger Mills, Inc. v. Cahoes Fibre Mills, Inc., 239 F.2d 502 (4th Cir. 1956) ..	*465
Etheridge v. Carolina Power and Light Co., 249 N.C. 367, 106 S.E.2d 560 (1959).....	*385, *392
Evans v. Commissioner, CCH 1959 <i>Stand. Fed. Tax Rep.</i> , (59-1 U.S. Tax Cas.) 47 9208 (9th Cir. Jan. 26, 1959), <i>reversing</i> <i>2nd remanding</i> 26 P-H Tax Ct. Mem. 156 (1957).....	341
Fink v. First Citizens Bank & Trust Co., 248 N.C. 370, 103 S.E.2d 460 (1958).....	*476
Fisher v. Taylor Motor Co., 249 N.C. 617, 107 S.E.2d 94 (1959).....	485
Ford v. Security Nat'l Bank, 249 N.C. 141, 105 S.E.2d 421 (1958).....	*424
Gilliken v. Gillikin, 248 N.C. 710, 104 S.E.2d 861 (1958).....	*471
Gladiola Biscuit Co. v. Southern Ice Co., 163 F. Supp. 570 (E.D. Tex. 1958) ..	205
GleNN v. City of Raleigh, 248 N.C. 378, 103 S.E.2d 482 (1958).....	*439, *468
Goldberg v. United Life and Acc. Ins. Co., 248 N.C. 86, 102 S.E.2d 521 (1958).....	92, *434
Greene v. Mitchell County Bd. of Educ., 237 N.C. 336, 75 S.E.2d 129 (1953) ..	*462
Griffin v. Turner, 248 N.C. 678, 104 S.E.2d 841 (1958).....	*475
Hajoca Co. v. Brooks, 249 N.C. 10, 105 S.E.2d 123 (1958).....	*449
Hannah v. House, 247 N.C. 573, 101 S.E.2d 357 (1958).....	*392
Harper v. Harper, 225 N.C. 260, 34 S.E.2d 185 (1945).....	*458
Harroff v. Harroff, 247 N.C. 730, 101 S.E.2d 311 (1958).....	*475
Henry Vann Co. v. Barefoot, 249 N.C. 22, 105 S.E.2d 104 (1958).....	337, *451
Hensley v. Farmers Fed'n. Co-op., 246 N.C. 274, 98 S.E.2d 289 (1957).....	*378
Herring v. Volume Merchandise, Inc., 249 N.C. 221, 106 S.E.2d 197 (1958) ..	*445
Hertz Corp. v. United States, 165 F. Supp. 261 (D. Del. 1958).....	341
Hicks v. Love, 201 N.C. 773, 161 S.E. 394 (1931).....	*420
Hill v. Parker, 248 N.C. 662, 104 S.E.2d 848 (1958).....	*388, *449, *467
Hinson v. Britt, 232 N.C. 379, 61 S.E.2d 185 (1950).....	*387
Hubsch v. United States, 256 F.2d 820 (5th Cir. 1958).....	200
Holt v. Cannon Mills Co., 249 N.C. 215, 105 S.E.2d 614 (1958).....	*378
Howze v. McCall, 249 N.C. 250, 106 S.E.2d 236 (1958).....	*384, *457
Ijames v. Swaim, 248 N.C. 443, 103 S.E.2d 507 (1958).....	*446
Inman v. Meares, 247 N.C. 661, 101 S.E.2d 692 (1958).....	*377
<i>In re</i> Bane, 247 N.C. 562, 101 S.E.2d 369 (1954).....	*471
<i>In re</i> Estate of Ives, 248 N.C. 176, 102 S.E.2d 807 (1958).....	109
<i>In re</i> Gilliland, 248 N.C. 517, 103 S.E.2d 807 (1958).....	*375, *401
<i>In re</i> Keil's Estate, — Del. —, 145 A.2d 563 (1958).....	333
<i>In re</i> Southern, 247 N.C. 544, 101 S.E.2d 327 (1958).....	*436
<i>In re</i> Virginia-Carolina Chem. Corp., 248 N.C. 531, 103 S.E.2d 823 (1958) ..	*452
<i>In re</i> Will of Stimpson, 248 N.C. 262, 103 S.E.2d 352 (1958).....	*476
<i>In re</i> Will of Tanner, 248 N.C. 72, 102 S.E.2d 391 (1958).....	*477
In the Matter of Davis, 248 N.C. 423, 103 S.E.2d 503 (1958).....	*428
In the Matter of Virginia-Carolina Chem. Corp., 248 N.C. 531, 103 S.E.2d 823 (1958).....	*374
Johns-Manville Sales Corp. v. Townsend, 248 N.C. 687, 104 S.E.2d 826 (1958) ..	*380
Johnson v. McLamb, 247 N.C. 534, 101 S.E.2d 311 (1958).....	*442
Kanupp v. Land, 248 N.C. 203, 102 S.E.2d 779 (1958).....	*443
Kellams v. Carolina Metal Prods. Inc., 248 N.C. 199, 102 S.E.2d 841 (1958).....	*378
Kent v. Dulles, 357 U.S. 116 (1958).....	172
Kimsey v. Reaves, 242 N.C. 721, 89 S.E.2d 386 (1955).....	*392
Kinross-Wright v. Kinross-Wright, 248 N.C. 1, 102 S.E.2d 469 (1958) ..	329, *396
Koonce v. Atlantic States Motor Lines, 249 N.C. 390, 106 S.E.2d 576 (1959) ..	*405
Lambeth v. Lambeth, 249 N.C. 315, 106 S.E.2d 491 (1959).....	*428
Lassiter v. Northampton County Bd. of Elections, 248 N.C. 1, 102 S.E.2d 469 (1958).....	*396
Lawson v. State Highway Comm'n., 248 N.C. 276, 103 S.E.2d 366 (1958).....	*378, *461
Lewis v. Allred, 249 N.C. 486, 106 S.E.2d 689 (1959).....	*375
Loving v. Whitton, 241 N.C. 273, 84 S.E.2d 919 (1954).....	*456
Lyon & Sons v. State Bd. of Educ., 238 N.C. 24, 76 S.E.2d 553 (1953).....	*462

	PAGE
Lucas v. White, 248 N.C. 38, 102 S.E.2d 387 (1958).....	*389
McAllister v. Magnolia Petroleum Co., 357 U.S. 221 (1958).....	163
McCrafer v. Stone & Webster Engineering Corp., 248 N.C. 707, 104 S.E.2d 858 (1958).....	*466
McKinney v. Morton, 248 N.C. 101, 102 S.E.2d 449 (1958).....	*444
Martin v. Houck, 141 N.C. 317, 54 S.E. 291 (1906).....	*462
Martin v. Local 71, Teamsters Union, AFL-CIO, 248 N.C. 409, 103 S.E.2d 462 (1958).....	*463
Mast v. Blackburn, 248 N.C. 231, 102 S.E.2d 812 (1958).....	*474
Mathews v. Griffin, 187 N.C. 599, 122 S.E. 465 (1924).....	*474
Miller v. City of Asheville, 112 N.C. 759, 16 S.E. 762 (1893).....	*398
Mitchel v. Lubin, McGaughy & Associates, 358 U.S. 207 (1959).....	505
Mobley v. Broome, 248 N.C. 54, 102 S.E.2d 407 (1958).....	*382
Montgomery v. Blades, 217 N.C. 654, 9 S.E.2d 397 (1940).....	*393
Moore v. Singleton, 249 N.C. 287, 106 S.E.2d 214 (1958).....	*389
Nantahala Power and Light Co. v. Horton, 249 N.C. 300, 106 S.E.2d 461 (1959).....	*443
National Biscuit Co. v. Stroud, 249 N.C. 467, 106 S.E.2d 692 (1959).....	*381
Nicholas v. Salisbury Hardware & Furniture Co., 248 N.C. 462, 103 S.E.2d 837 (1958).....	*442
Oliphant v. Brotherhood of Locomotive Fireman and Enginemen, 262 F.2d 359 (6th Cir. 1958), <i>cert. denied</i> , 359 U.S. 935 (1959).....	509
Overon v. Tarkington, 249 N.C. 340, 106 S.E.2d 717 (1959).....	*390
Park Terrace v. Burge, 249 N.C. 308, 106 S.E.2d 478 (1959).....	320
Parrish v. Parrish, 247 N.C. 584, 101 S.E.2d 480 (1958).....	*447
Pearson v. Peerless Flooring Co., 247 N.C. 434, 101 S.E.2d 301 (1958).....	219
Pentecost v. Ray, 249 N.C. 406, 106 S.E.2d 467 (1959).....	*381
People v. United States Fire Ins. Co., 248 N.C. 303, 103 S.E.2d 381 (1958).....	*409
Percy W. Phillips, P-H 1958 T.C. Rep. Dec. 30.87.....	101
Perkins v. Perkins, 249 N.C. 152, 105 S.E.2d 663 (1958).....	*411
Phillips v. Gilbert, 248 N.C. 183, 102 S.E.2d 771 (1958).....	*423
Piedmont Natural Gas Co. v. Day, 249 N.C. 482, 106 S.E.2d 678 (1959).....	*443
Pittman v. Pittman, 248 N.C. 738, 104 S.E.2d 880 (1958).....	*466
Presley E. Brown Lumber Co. v. Textile Banking Co., 248 N.C. 308, 103 S.E.2d 334 (1958).....	*409, 489
Pressley v. Turner, 249 N.C. 102, 105 S.E.2d 289 (1958).....	*464
Prough v. Prough, 308 S.W.2d 294 (Mo. 1957).....	326
Putnam v. Triangle Publications, 245 N.C. 432, 96 S.E.2d 445 (1957).....	*465
Ranlo Supply Co. v. Clark, 247 N.C. 762, 102 S.E.2d 257 (1958).....	*407
Rhode Island Hospital Trust Co. v. United States, 159 F. Supp. 204 (D.R.I. 1958).....	96
Robinson v. Highway Comm'n, 249 N.C. 120, 105 S.E.2d 287 (1958).....	*422
Roach v. Pyramid Life Ins. Co., 248 N.C. 699, 104 S.E.2d 823 (1958).....	*432
Royall v. Carr Lumber Co., 248 N.C. 735, 105 S.E.2d 65 (1958).....	*380
Seas Shipping Co., Inc. v. Sieracki, 328 U.S. 85 (1946).....	479
Shackleton v. Food Mach. and Chem. Corporation, 166 F. Supp. 636 (E.D. Ill. 1958).....	494
Shaver v. Shaver, 248 N.C. 113, 102 S.E.2d 791 (1958).....	*473
Shaw v. Joyce, 249 N.C. 415, 106 S.E.2d 459 (1959).....	*461
Shephard v. Rheem Mfg. Co., 248 N.C. 170, 102 S.E.2d 763 (1958).....	*399, *465
Shingleton v. North Carolina Wildlife Comm'n, 248 N.C. 89, 102 S.E.2d 402 (1958).....	*442
Skipper v. Yow, 249 N.C. 49, 105 S.E.2d 205 (1958).....	*445
Sledge v. Miller, 249 N.C. 447, 106 S.E.2d 868 (1959).....	*442, *468
Sledge v. Wagoner, 248 N.C. 631, 104 S.E.2d 195 (1958).....	*460
Sloan v. Carolina Power & Light Co., 248 N.C. 125, 102 S.E.2d 822 (1958).....	*430
Smith v. Smith, 248 N.C. 298, 103 S.E.2d 400 (1958).....	*425, *427
Smith v. Smith, 248 N.C. 194, 102 S.E.2d 868 (1958).....	*446
Smith v. Thompson, 210 N.C. 672, 188 S.E. 395 (1936).....	*457
Spaugh v. City of Winston-Salem, 249 N.C. 194, 105 S.E.2d 610 (1958).....	*388, *420
Stamey v. Rutherfordton Elec. Membership Corp.,	

	PAGE
247 N.C. 640, 101 S.E.2d 814 (1958).....	*386
State ex rel East Lenoir Sanitary District v. Lenoir, 249 N.C. 96, 105 S.E.2d 411 (1958).....	*439
State ex rel Employment Security Comm'n v. Hennis Freight Lines, Inc., 248 N.C. 496, 103 S.E.2d 829 (1958).....	*374, *376, *437
State ex rel Hooks v. Flowers, 247 N.C. 558, 101 S.E.2d 320 (1958).....	*403, *428
State ex rel Util. Comm'n. v. New Hope Road Water Co., 248 N.C. 27, 102 S.E.2d 377 (1958).....	*373, *376, *440
State v. Banks, 247 N.C. 745, 102 S.E.2d 245 (1958).....	*417
State v. Bertrand, 249 N.C. 413, 106 S.E.2d 484 (1959).....	*469
State v. Caldwell, 249 N.C. 56, 105 S.E.2d 189 (1958).....	*415
State v. Clyburn, 247 N.C. 455, 101 S.E.2d 295 (1958).....	73
State v. Cooke, 248 N.C. 485, 103 S.E.2d 846 (1958).....	*398, *416
State v. Courtney, 248 N.C. 447, 103 S.E.2d 861 (1958).....	*419
State v. Denny, 249 N.C. 113, 105 S.E.2d 446 (1958).....	*412
State v. Dew, 248 N.C. 188, 102 S.E.2d 774 (1958).....	*413
State v. Exum, 213 N.C. 16, 195 S.E. 7 (1938).....	*416
State v. Jones, 249 N.C. 134, 105 S.E.2d 513 (1958).....	*413
State v. Knight, 247 N.C. 754, 102 S.E.2d 259 (1958).....	*412
State v. Knight, 248 N.C. 384, 103 S.E.2d 452 (1958).....	*413
State v. McGraw, 249 N.C. 205, 105 S.E.2d 659 (1958).....	*441
State v. May, 248 N.C. 60, 102 S.E.2d 418 (1958).....	*417
State v. Mercer, 249 N.C. 371, 106 S.E.2d 866 (1959).....	*416
State v. Pitt, 248 N.C. 57, 102 S.E.2d 410 (1958).....	*417, *430
State v. Roach, 248 N.C. 63, 102 S.E.2d 413 (1958).....	*469
State v. Robinson, 248 N.C. 282, 103 S.E.2d 376 (1958).....	*418
State v. Smith, 249 N.C. 212, 105 S.E.2d 622 (1958).....	*418, *430
State v. Trent, 106 S.E.2d 527 (S.C. 1959).....	518
State v. Welborn, 249 N.C. 268, 106 S.E.2d 204 (1958).....	*414
State v. Wheeler, 249 N.C. 187, 105 S.E.2d 615 (1958).....	*430
Strickland v. Franklin County, 248 N.C. 668, 104 S.E.2d 852 (1958).....	*440
Suits v. Old Equity Life Ins. Co., 249 N.C. 383, 106 S.E.2d 579 (1958).....	*433
Tew v. Runnels, 225 N.C. 260, 34 S.E.2d 108 (1958).....	*458
Textile Workers Union v. Cone Mills Corp., 166 F. Supp. 654 (M.D.N.C. 1958).....	500
Thomas v. Thomas, 248 N.C. 269, 103 S.E.2d 371 (1958).....	*394, *426
Thomasson v. Smith, 249 N.C. 84, 105 S.E.2d 416 (1958).....	*440, *451
Thompson v. Seaboard Air Line R.R., 248 N.C. 170, 102 S.E.2d 763 (1958).....	*383, *399
Topping v. North Carolina Board of Educ., 249 N.C. 291, 106 S.E.2d 502 (1959).....	*444
Town of Morganton v. Hutton & Bourbonnais Co., 247 N.C. 666, 101 S.E.2d 679 (1958).....	*393
United States ex rel Guagliardo v. McElroy, 158 F. Supp. 171 (D.D.C. 1953).....	184
Walston v. Greene, 247 N.C. 693, 102 S.E.2d 124 (1958).....	*459
Walston v. Twiford, 248 N.C. 691, 105 S.E.2d 62 (1958).....	*407, *410
Wheeler v. Reynolds, 164 F. Supp. 151 (N.D. Fla. 1958).....	184
Wiener v. United States, 357 U.S. 349 (1958).....	194
Wilkes Poultry Co., Inc. v. Clark Trailer and Equip. Co., 247 N.C. 570, 101 S.E.2d 458 (1958).....	*389
Willard v. Huffman, 247 N.C. 523, 101 S.E.2d 373 (1958).....	*435
Williams v. King, 247 N.C. 581, 101 S.E.2d 308 (1958).....	*445
Williams v. Mickens, 247 N.C. 262, 100 S.E.2d 511 (1957).....	104
Williams v. McSwain, 248 N.C. 631, 104 S.E.2d 195 (1958).....	*460
Williford v. Southern Fire & Ins. Co., 248 N.C. 549, 103 S.E.2d 804 (1958).....	*431
Wilson v. Massagee, 224 N.C. 705, 32 S.E.2d 335 (1944).....	*391
Winston-Salem v. Southern Ry., 248 N.C. 637, 105 S.E.2d 37 (1958).....	187, *441
Wong v. Utah Home Fire Ins. Co., 167 F. Supp. 230 (D. Hawaii 1958).....	317
Woody v. Pickelsimer, 248 N.C. 599, 104 S.E.2d 273 (1958).....	*383, *474
Youngblood v. Bright, 243 N.C. 599, 91 S.E.2d 559 (1956).....	*463

INTENTIONAL BLANK



© 1957 Mr. Philippe Halsman

JUDGE JOHN JOHNSTON PARKER