

form, is of unquestionable value in inducing arbitrators to act with caution.

The accusation of judicial jealousy takes three major forms, it being contended that courts have (1) substituted their judgment for that of the arbitrator, (2) under the guise of necessity for construction of the contract, usurped the arbitrator's function of interpretation, and (3) narrowed the arbitrator's jurisdiction by requiring the clearest and broadest language to justify a finding that he has any. This study examines the cases which give rise to the charges, and concedes that a certain degree of judicial hostility does exist.

Recent cases indicate a greater judicial regard for arbitration as a method of settling disputes with more respect being afforded the determinations of arbitrators even in cases where the reviewing court would have reached a result different from that of the arbitrator. Despite ambiguous and unclear language in a collective bargaining agreement, for example, arbitrators' interpretations have been upheld as not modifying the terms of the agreement.

Under Section 301(a) of the Labor Management Relations Act of 1947 provisions for arbitration contained in a collective bargaining agreement, in industries affecting interstate commerce, are specifically enforceable. In the *Lincoln Mills* case Mr. Justice Douglas found a federal policy requiring enforcement of agreements not to strike and a duty vested in the federal courts to fashion a remedy for the effectuation of this policy. Subsequent federal court treatment in such cases indicates a conscious effort on the part of the courts to fulfill their obligation in this regard without going beyond the bounds of judicial review.

Judicial review has been treated in the article under a broad definition of the term, so as to include its effect upon several phases of the arbitration process. The object of the approach is to gain a full appreciation for the scope of the court's exercise of the reviewing power. A final caveat for the reviewing court is that it be willing to recognize that, despite differences of method, an arbitrator is able to arrive at a just result.

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BILLS AND NOTES

NON-NEGOTIABLE INSTRUMENTS, by William F. Willier, 11 Syracuse L. Rev. 13 (Fall 1959).

Professor Willier examines and synthesizes over three hundred decisions of American Courts pertaining to non-negotiable instruments covering the period 1880 to 1958. The author formulates generalizations as to the law of non-negotiable instruments and in so doing has produced material which is unique. This article should be of interest to the practicing bar as it furnishes material not heretofore available.

The purpose of the article is to survey the law of non-negotiable instruments for comparison with that of negotiable instruments. Among the topics discussed are the requirements for transfer of non-negotiable instruments, the rights and liabilities of the various parties to such instruments, warranty liabilities of transferors, the various equities and defenses attaching to transferred instruments, and severance of ownership and waiver of defenses.

Professor Willier takes issue with the draftsmen of the Uniform Commercial Code for not adding certainty and uniformity to non-negotiable instrument law by broadening the definition of Section 3-805 to include all instruments resembling negotiable instruments insofar as they contain promises or orders to pay money and are intended by the original parties to be transferable, although deficient in meeting the formal requirements of negotiable instruments.

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CONTRACTS

EMPLOYEE AGREEMENTS NOT TO COMPETE, by Harlan M. Blake, 73 Harv. L. Rev. 625 (February 1960)

In this article Professor Blake begins with a historical discussion of the judicial treatment of covenants in which an employee agrees not to compete with his employer after termination of the employment. The author examines the present status of such agreements and analyzes the factors determining their enforceability. He suggests advice for counsel in drafting effective postemployment restraints for employees who during their employment have access to valuable confidential information or have special relationships with clients with respect to whom the employer has a dominant claim.

A foundation for an understanding of the modern law of postemployment restraints is laid by comprehensively analyzing its history in England, using as a focal point the landmark case of *Mitchel v. Reynolds*, in which the rule of reason was formulated. The development of the law in America closely parallels that in England. By the end of the nineteenth century the courts in both countries had firmly settled on the reasonableness approach and completely abandoned the mechanical distinction between general and partial restraints.

Recent developments in the law are considered, the article pointing out the balancing of interests involved in formulating the permissible limits of employee restraints. On the one hand, there is the potential social, political, and economic harm that may result to the employee; on the other, the necessity that business organizations be able confidently to entrust important business information to certain employees. Most recent cases impliedly require the employer to show special circumstances making it unfair for him to bear all the risk of putting an employee in a position